

**'THE GREATEST MECHANISM EVER FOR SOLVING THE MAORI
LAND "PROBLEM" '?**

**A STUDY OF THE STOUT-NGATA NATIVE LANDS AND LAND
TENURE COMMISSION 1907-1909**

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ABSTRACT

In 1907 the Liberal Government was under immense pressure to buy more Maori land throughout the North Island and it appointed a Commission comprising Chief Justice Sir Robert Stout and Apirana Ngata, to decide what land was 'excessive' to Maori needs and could be opened up for Pakeha settlement by way of lease or sale, and what areas Maori should be allowed to keep for their own occupation. The Stout-Ngata Commission operated over a two year period from 1907 through to the beginning of 1909. By conducting their own research as to the amounts of land still left in Maori control, and convening sittings which the Maori owners were invited to attend, the Commission attempted to establish how much Maori land was still needed for their own occupation, and how much could be made available for public settlement. Throughout this whole period it was the stated hope of both Stout and Ngata to 'do justice to the Maori'.

The sittings were conducted throughout various districts and counties in the North Island; proceedings were often held on local marae, community halls, and in the Courthouse. What was special about the work of the Commission more so than any other Government Commission which had investigated Maori land, was the way in which Stout and Ngata went right in amongst the people, and enabled Maori to freely express their concerns about the land, and present ideas as to its future utilisation. The relationship between the Commissioners and the iwi living in each region was unique, and was often based around Maori concerns which had been shaped as a result of specific circumstances surrounding each region's history. However, the primary wish of all Maori who gave evidence to the Commission was their desire to maintain control over their lands. In this respect the people were vehemently opposed to any further sales of their lands, although many were prepared to consider leasing some of their blocks.

Stout and Ngata heard evidence from Maori over the two year period, which was interspersed by their writing of reports and presentation of their official recommendations. It became apparent soon after the release of their first General Report, that the Commission was not just going to be another Crown agent for acquiring 'surplus' Maori land, and instead their investigations focused on the needs of Maori. Stout and Ngata became particularly well known for the encouragement they gave Maori to farm their own lands, rather than forcing them to give it up for Pakeha settlement. In relation to this, their primary recommendation identified that the Crown had a duty to provide Maori with sufficient education and financial support in order to allow the people to begin prosperous farming operations like their Pakeha counterparts. This recommendation was largely ignored by the Government, until twenty years after the Commission, when Ngata was able to implement the policy which he and his colleague Sir Robert Stout had vigorously proposed during their tenure as Commissioners from 1907-1909.

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LIST OF ABBREVIATIONS

AJHR Zealand)	Appendices to the Journals of the House of Representatives (New
ATL	Alexander Turnbull Library, Wellington, New Zealand
<u>DNZB</u>	<u>The Dictionary of New Zealand Biography</u>
N.A.	National Archives, Wellington, New Zealand
<u>NZJH</u>	The New Zealand Journal of History
<u>NZPD</u>	New Zealand Parliamentary Debates (Hansard)
TACSA	Te Aute College Students' Association

INTRODUCTION

The Stout-Ngata Commission was in operation from 1907 to 1909, and was appointed by the Ward-led Liberal Government for the purpose of investigating how much Maori land was still left in Maori ownership in the North Island, and if in fact, any of this land was lying 'idle' and 'under-utilised'. The Commission came at a time when racist assumptions and attitudes such as the fear of Maori 'landlordism' were prevalent in Pakeha society. Appointing a new Commission was thus the idea of a Government who had found themselves caught in the middle of the rapidly expanding chasm that was Maori and Pakeha attitudes, and hoped to use two well-esteemed members of each society to bridge the widening gap.

There was also a political motive behind the Liberals' appointment of the Stout-Ngata Commission. The Government had rapidly been losing support from many of the Pakeha settlers and farmers who believed that the Government was not doing enough to open up Maori land for Pakeha settlement, and felt that the Crown was not promoting the productive settlement of thousands of acres of 'unused' Maori land. This was a pervasive Pakeha attitude of the time, and failed to take into account the chaos which individualisation of title had caused Maori, and the fact that many Maori were financially incapable of meeting the standards of productive utilisation as demanded by Pakeha.

Thus, having tried for some years to come up with a way of opening up Maori land for settlement, the Government 'hit on' the idea of a Commission which would tour the North Island, and complete a 'stock-take' of what Maori land there was. The Commission was also to visit the Maori owners personally, and hear their concerns and proposals about the use of their land. The purpose of this study therefore, is to try and show by detailed discussion, the specific Maori concerns relating to their land in the early part of the twentieth century, and to highlight the role of the Commission in allowing Maori to present their concerns.

The idea to complete a study of the Stout-Ngata Commission came from an broad suggestion by Waitangi Tribunal, which was looking to build up its historical archive on Maori/Pakeha relations during the Liberal period. The suggestion was in a list of other topics, and specifically drew my attention because to date there has been no major study done of the Commission itself. Although the Commission has been frequently mentioned in the context of numerous discussions on Liberal Maori land policy, the work of the Commissioners themselves and the evidence heard by Maori during the sittings, has never been analysed. Stout and Ngata's recommendations from their work with the Commission have also frequently been considered because some of their proposals which were reflected in the Native Land Act 1909.

The story of the Commission itself has seemed to languish in history, and my first thought was that I had chosen a topic which had largely been ignored by previous historians. The general reason for this seems to be that the historical significance of the Commission was not as great as other events or persons in New Zealand's history. The Stout-Ngata Commission thus cannot be described as a dramatic historical event,

but nonetheless it is an important signpost of the times; a part of New Zealand's history of Maori/Government relations. Fascinating detail has come to light as a result of my study; more specifically it has shed light on what the concerns of the majority of Maori people were in the context that they were able to share their thoughts with the Commission against the familiar background of the home district. Furthermore, the study reveals interesting aspects of the Commissioners' natures, and further develops our understanding of two great leaders of New Zealand society, Apirana Ngata and Sir Robert Stout. The two men came from dramatically different backgrounds characterised by age and ethnicity, yet the records showed that their relationship was based on a respect for each other's intellectual capabilities and ideas.

Thus my task has been to complete a long overdue yet detailed study and analysis of the Commission. This work is a study of the Commission, on which there has been very little written, it is neither revisionist nor a critique of an earlier work. Rather, it is about piecing together a small episode in Maori/Pakeha relations. In many respects this is a study of the 'mechanics' of the Commission. During a seminar held at the Waitangi Tribunal in 1996, fellow students from Massey University had approached the Commission as a class, and had consequently chosen to focus on specific regions, or specific aspects of the Commission's work. My work has tried to draw together a broad range of all such examples, and attempts to share with the reader some of the interesting points which emerged from the primary records.

There are aspects to the thesis which have not been dealt with as fully as they could. This was either the result of a time limit(!) or a plethora of confusing records which did nothing to clarify the point I was attempting to explain! In particular, the *Native Land Settlement Act 1907* was a difficult piece of legislation to handle, and how much it influenced the work of the Commission is questionable. Stout and Ngata were highly critical of this Act, and tried to ignore it wherever they could in making recommendations. Although, where they recommended land for lease it was done under the provisions of Part II of the Act. This thesis thus pays less attention to the Act which could surprise people, but doing the actual operations and sittings of the Commission, it was a hotly-discussed topic as many people would presume. Nevertheless, it featured again in 1909 when the Government reconstituted many of the provisions of the 1907 Act in the *Native Land Act 1909*. These provisions were credited as Stout and Ngata's recommendations, but they were less their personal recommendations, and more simply the original provisions of the 1907 Act. Nevertheless the importance of the 1907 Act in the context of the Stout-Ngata Commission is one aspect which still deserves much research.

The Waimarama dispute was also a difficult piece to tackle. In respect of the Commission, this dispute was relatively insignificant and did not necessarily take the centre stage. However beyond the Commission, the dispute had become a major battle which involved the Native Minister, the Appellate court and even the Supreme Court. The Commissioners were one in a long line of many who tried to mediate or solve the dispute.

Upon beginning this work, the sources looked scarce, but the records of the Commission in the National Archives, Wellington, proved to be a 'treasure chest' of previously uncollated material. The Commission thus does have its own set of files in Wellington which included both Stout's and Ngata's Minute Books of evidence, and

letter and telegrams from various sources. However in order to establish some sort of context into which the Commission falls, secondary material was required to piece together events and policies surrounding the Commission. Chapter One is the result of such research, and is primarily a study of the Liberal Government, its Maori land policies from 1894-1907, and Maori political activity in the same period. Chapter One takes the reader to a point where the Government is desperately looking for a new solution to solve the Maori land 'problem', and Chapter Two begins with an idea of Carroll which was to set up a Commission of inquiry into Maori lands. Chapter Two thus discusses the establishment of the Commission, the personnel appointed to the job, and public reaction to its appointment. A detailed study of the members of the Commission - Stout and Ngata - is also included to establish the kind of attitudes and experiences which the Commissioners brought to their job.

Chapter Three begins the study of the Commission proper, and is a more general study of the basic mechanics and operations of the Commission. The next chapter begins a more detailed discussion as to the relationship of the Commissioners and Maori, and the concerns Maori raised at the Commission hearings. Chapter Four also discusses the 'stock-taking' role of the Commission, and the quantity of data and statistics which Stout and Ngata had to collect. Particular emphasis is focussed on three regions - Rotorua, the East Coast, and the King Country-Waikato - which are case-studied in Chapter Five. This chapter highlights the diversity of Maori concerns, and the unique relationship of Stout and Ngata with each iwi. Issues discussed include Maori concerns over retaining control of valuable resources such as timber and tourism, the effect of raupatu on so many Maori, and the anger felt by others who had seen their lands subjected to years of inadequate administration by government and court-appointed trustees. The final chapter, Number Six, draws together all of the Commissioners' recommendations as they were written in official reports, and focuses on how Maori concerns as heard in the sittings were reflected by Stout and Ngata in their investigations.

It has been a long, and at times arduous task. But to have completed the first full study of the Stout-Ngata Commission is nonetheless highly satisfying, and hopefully shares some new and interesting historical details on Maori/Government relations.

CHAPTER ONE - ORIGINS OF THE COMMISSION

I

The whole history of Maori and Pakeha in New Zealand has been troubled by the question of land rights and land utilisation. The interests of settler and Maori have conflicted constantly. This theme of Maori/Pakeha relations is central to the general context surrounding the work of the Stout-Ngata Commission and encompasses the importance of land to Maori, their unique relationship with the land, and the consequent pressure which resulted when the Pakeha arrived. Tensions arising from matters such as land legislation, ownership and use, and how these reflected and contributed to the relationship between Maori and Pakeha, provide the basis for the work of the Commission as it attempted to justify and resolve the narrowly-focused Maori land policy of the Liberal Government.

'British sovereignty was proclaimed over New Zealand in 1840; fifty years later, with the extension of British law and administration to all but the most remote corners of the country, it had become an established fact.'¹

As a tribal people isolated for centuries from other peoples, the Maori were vulnerable when they were confronted with people who not only brought concepts of ownership, individualism, materialism, and domination, but who also believed that their own kind were superior to others. Classed as a lesser - if redeemable people - Maori were put at a constant and demonstrable disadvantage in dealings with Europeans. As 'tribal fragments' they were played off against one another, and 'out-manoeuvred in negotiation'². As easy targets for land-seeking colonists Maori began to witness a process of disintegration which included alienation of tribal lands, cultural demoralisation, and the collapse of customary laws. At the same time the institutions of government which had promised to protect their interests had passed completely into the hands of these same colonists.

Upon the arrival of the Pakeha, there was much vexatious debate over the 'opening' of Maori lands, but by 1865 there was no doubt as to the established dominance of the Pakeha and the increasing irrelevance of Maori concerns to Pakeha. Recognising that there were certain difficulties in the Maori-Pakeha relationship centred upon land access and availability, early Pakeha statements called for a future of 'one nation on cordial and amicable terms.'³ Such visions were often based on the notion of the Maori as a 'noble race', superior to other 'savages' and hence suitable for amalgamation with Pakeha into one nation. In 1865 the Government sought to graft the Pakeha ideal - 'an Englishman's home is his castle' - upon a people who knew no such thing as individual title in land.

¹ M.P.K. Sorrenson, 'Maori and Pakeha' in Geoffrey W. Rice, ed; The Oxford History of New Zealand, 2nd ed., Auckland, 1992, p.141.

² Michael King, Te Paea: a Biography, Auckland, 1977, pp. 21-23.

³ Peter Taylor, 'The Maori' in Pakeha Public Discourse 1890-1910', MA Thesis, University of Canterbury, 1992, pp. 73-77.

Part of the confusion over Maori land in the first fifty years after the Treaty was due to the number of Acts passed which directly affected Maori and their land. The very nature of Maori ownership of customary lands precluded their being dealt with under English land law. Maori customary land was held not by individuals, but by communities of individuals and tribes.

In 1862 the New Zealand Parliament waived the provision of Crown pre-emption which had made private alienation of Maori land impossible, opening the way for private purchases and free trade in Maori land - and a number of fraudulent dealings. Up until that time only the Crown was able to buy land from the Maori, and any private sales between Pakeha settler and Maori were prohibited. The system of purchasing customary land from the Maori in the post-Treaty years had been slow and cumbersome and enabled the Maori to withhold land from sale. To later solve this problem, after years of war, the Crown would create the Native Land Court in 1865.

For the Maori, who had become increasingly apprehensive at the long-term implications of European colonisation, land quickly became the focus of economic and political confrontation with the Pakeha. Chiefs who had been firm allies of the Government in the 1840s were 'in the 1850s to become opponents of land sales and in the 1860s were pushed into rebellion.'⁴ The rivalry that developed between the two peoples was more than a 'naked contest' for land, it was also a contest for authority and for mana over the land and the people it sustained. Forced into wars on their own land, and suffering defeat at the hands of the British colonial forces, the Maori witnessed Pakeha settlers move further into the interior of the North Island, assisted by the operations of the Native Land Court.

The Native Lands Act, passed in 1865, and replaced in 1873, has been described as 'a piece of legislation that was itself an act of war.'⁵ The new Native Land Court, which the Act created, acquired jurisdiction over the whole country, whilst the law gave authority for any Maori to bring tribal lands before the Court to establish title. The Court then dealt with the investigation of titles and partition and in every such proceeding it ascertained and defined the relative interest of owners in the land. It had the power to determine succession and to approve exchange in cases where any two Maori had interests in different blocks.

By 1894, the Maori Land Court had power to remove restrictions on Maori land and to confirm alienations.⁶ The Court was also given the job of turning communal tribal titles into individual Crown titles, and was an effective instrument in breaking communal resistance. Any individual Maori could apply to have their share of the collective blocks partitioned off.

This step further smoothed the way for private settler purchases, and in attacking communal ownership, weakened one of the main props of Maori social organisation

⁴ Sorrenson, 'Maori and Pakeha', in Rice, ed; *Oxford History of New Zealand*, 2nd ed., p. 152.

⁵ Judith Binney, 'The Native Land Court and the Maori Communities 1865-1890' in Judith Binney, Judith Bassett and Erik Olssen, *The People and the Land: Te Tangata me Te Whenua: An Illustrated History of New Zealand 1820-1920*, Wellington, 1990, p.143.

⁶ B.R. Gilmore, 'Maori Land Policy and Administration during the Liberal Period 1900-1912', MA Thesis, University of Auckland, 1969, p.90.

and traditional authority. It is not surprising therefore that many Maori were embittered by land dealings and the operation of the Native Land Court. To them, the Court became known simply as the 'Land Taking Court'. Many Maori who put their land through the Court, were often left deep in debt. For those unable to pay, hearings were refused. Court sittings were often far away from the land in question, and Court decisions were seldom final, giving no clarity of title to the Maori owners. Furthermore, Maori were suddenly possessed of a marketable commodity in their land, and surrounded by temptations, or simply poor, there were always those ready to sell the ground that had symbolised the unity of their tribe.

By the late nineteenth century the Treaty of Waitangi was important only to Maori. In the 1870s and 1880s the operation of these early laws made possible a system of legalised land grabbing - most European settlers insisting that no injustice was being done to the Maori. As long as adequate public and private finance was available and as long as fertile Maori land remained, there was little chance that the Maori could retain their land. As of 1891, only 11 million acres of North Island land was still owned by Maori. Nearly one quarter of this acreage was, however, leased to European settlers. Nevertheless, from the Pakeha point of view, much remained to be done, and successive governments had to be sensitive to the charge that large amounts of Maori land were lying 'under-utilised and unproductive'. Settler pressure for more land was increasing.

At the time of the Liberals' rise to power, Maori in almost every area of the North Island had experienced disruptive economic and social effects which followed the ascertainment of title by the Native Land Court, private and public purchase of Maori land, and extensive Pakeha settlement. By 1893, 'the Maori people had been subordinated to the settler political and legal system and asked to assume its obligations, while being steadily parted from their lands by processes which favoured speculation and deviousness and hindered Maori farmers.'⁷ The Maori culture itself was widely denigrated, yet little encouragement was given to Maori participation in a broad range of Pakeha vocations. Nor was Maori autonomy given any voice; the Kotahitanga Parliament, for instance, was dismissed by the House of Representatives in the 1890s.

The advent of the twenty-year Liberal regime has usually been judged to have resulted in much more benign Maori policies than those of previous years. In many respects this was true from the later 1890s when the association of the 'mixed-race' politician James Carroll as Minister of Native Affairs, and the Premier, Richard Seddon, began to bear fruit. However, in the 1900s, the Liberal Government was only minimally concerned with Maori problems, Pakeha needs remained paramount and the stereotype of 'the feckless and indolent Maori enabled them in good conscience to carry on with land purchasing.'⁸ In order to promote closer settlement much land was needed and for this reason the Liberals embarked upon a programme of wholesale purchase of Maori land in the 1890s. Thus, Maori land policy of the Liberal Government was largely conditioned by the need to satisfy the land hunger of the period. It was agreed that the Maori should alienate their lands as quickly as possible

⁷ Alan Ward, *A Show of Justice: Racial 'Amalgamation' in Nineteenth Century New Zealand*, Auckland, 1975, p.305.

⁸ G.V. Butterworth, 'The Politics of Adaptation: the Career of Sir Apirana Ngata, 1874-1928', MA Thesis, University of Canterbury, 1969, p.290.

so that areas lying 'idle and unprofitable' might be made productive by Pakeha settlers.

In a predominantly land-owning Parliament, the desire to continue purchasing land from the Maori overruled all other considerations, and the Government's main preoccupation became how best to make Maori lands available for Pakeha settlement. This narrowly-focused Maori land policy of the Liberal Government was, according to Martin,⁹ paternalistic - a compromise which satisfied neither the Maori who wished mainly for cessation of Crown purchases at non-competitive prices, and for freedom of trade; nor the 'free-traders' who advocated speedy individualisation of title and a policy which in the matter of land settlement would place the Maori in an 'equal' position to Pakeha.

Martin writes that James Carroll was a key figure in the establishment of a Liberal Maori policy, and believed that the problem confronting the Government was that of devising a method of 'facilitating the settlement of the unoccupied Maori land without infringing Treaty rights,' while at the same time paying due regard to the fact that unrestricted dealings were liable 'to tend to the impoverishment of a race' which the Government was duty-bound to protect. Carroll suggested, noted Martin, that Parliament should not regard the subject as a 'mere matter of reckoning how much land one can get from the Maori to put Europeans upon', but that it should be recognised that there was a solemn duty to see the Maori settled upon their own land with the benefits of education and 'civilisation'¹⁰.

However, in acquiescence to the Liberal policy, Carroll also believed that the Maori could not detach themselves from forces that were working in the colony, stating that: 'the native race is not able to suppress the growing desire of the more powerful race, the Europeans. The European race is the dominant race in this island at the present time...'¹¹ He suggested that the only hope for Maori would be to unite and work with the Pakeha, following their example of making idle land productive. It was recognised by certain Maori that some satisfaction would have to be given to the settlers crying out for land and to those Maori who wished - for whatever reason - to alienate.

The Stout-Ngata Commission should thus be seen against this strained background of Maori/Pakeha relations, and of Liberal land policy as a whole - against the pressures of those groups most concerned: the settlers whose cry was 'land for settlement', and the Maori who wanted to be left free either to dispose of or utilise their lands as they saw fit.

II

The Liberal Party won the New Zealand General Election of 1890 with the support of the small farmers and workers, forming the first coherent party government in New

⁹ R.J. Martin, 'Aspects of Maori Affairs in the Liberal Period', MA Thesis, Victoria University of Wellington, 1956, p.119.

¹⁰ Ibid., p.164.

¹¹ Sheryl Sweetman, 'James Carroll 1887-96: "A Wholesome Blend"', MA Thesis, Massey University Palmerston North, 1973, p.53.

Zealand history¹². In 1889 John Ballance was chosen as Leader of the Opposition. He was supported by a group including John McKenzie and William Pember Reeves which became the nucleus of a parliamentary Liberal Party in 1890 and thereafter. The election of the first Liberal Government - in a contest fought by parties rather than factions or independents - inaugurated a new political regime which lasted twenty years. Under Ballance and Richard John Seddon, who replaced Ballance as Premier on his death in 1893, the Liberals passed the welfare and labour legislation that first gave New Zealand its reputation as a radical utopia. Nevertheless, one of the distinguishing features of the Liberal era was its preoccupation with the land question.

In New Zealand the farmers, though as yet without formal organisation, were the greatest sectional group, greater than the urban workers in numbers, politically far more important because they controlled so many more constituencies. The allegiance of the 'country vote' was the greatest factor in politics, and the farmers remained the guiding element in the Liberal synthesis from 1890 to the beginnings of their massive shift to Reform in 1909-1910¹³.

The Liberals had come into office on a wave of discontent caused largely by depression and land-hunger. The previous, conservative government had identified with the land-owning class, and the new Liberal Government was determined to prevent the growth of a land-owning oligarchy and to provide 'land for its people'¹⁴. Their policy aimed at removing barriers to social mobility, and it was the broad programme of land reform which saw the Liberals to victory in the 1890 election. They passed new land laws which aimed to encourage closer settlement, to break up the great speculative estates, and to provide cheap state credit and transportation for the small dairy and sheep farms.

Closer settlement of the land was also a central tenet of the Liberals' philosophy. In their grand plan, it would create the ideal rural society of independent yeoman farmers. It was believed that these industrious and efficient small farmers would raise the productivity and hence the wealth of the nation, and would be enthusiastic supporters of the government. The push for closer settlement and mixed farming came from those opposed to so much of the land being locked up in the hands of large owners and absentee owners. These became the political targets of the Liberals.

They also believed small farming to be desirable in itself. To this end they meant to ensure that Crown lands should be alienated only to genuine settlers; to re-purchase estates for subdivision; and by means of taxation to force great landowners to subdivide their properties. They hoped to extend leasehold at the expense of freehold tenure because they believed land should be public property. In addition, they soon

¹² The New Zealand Liberal Party was a world apart from its British namesake. Liberal leaders such as Robert Stout or John Ballance, although they had been educated in the school of individualism and *laissez-faire*, had come to believe that only state intervention could cure the country's ills. It was this belief in the potential beneficence of the state that distinguished them from the majority of British Liberals, but united them in one faith with most of the radicals throughout the English-speaking world. (Keith Sinclair, *A History of New Zealand*, Fourth Revised Edition, Auckland, 1991, p.172.)

¹³ R.T. Shannon, 'The Liberal Succession Crisis in New Zealand 1893' in *HISTORICAL STUDIES* (Australia and New Zealand), Vol 8, No.30, (May 1958), p.199.

¹⁴ Anne-Marie O'Brien, 'The Stout-Ngata Native Land Commission, 1907-1909: Aspects of Maori Land Policy in the Liberal Era', BA(Hons) Essay, Dunedin, 1991, p.3.

decided to make cheap loans available so that new settlers would not fail for want of initial capital.¹⁵ Amongst the Liberals there was a desire to create in New Zealand a 'brave new world' which would not reproduce the social ills, disorder and unfair distribution of wealth as in the 'old world'. Land monopoly was seen as a primary cause of such afflictions, and therefore closer settlement was regarded as the foundation of all other reforms.

The Liberals believed in a dominant role for central government, and some wished to lease the remaining Crown land rather than sell it. A lease had merit in the eyes of the Liberals as it made it easier for poorer people to acquire farms because they could rent land cheaply instead of buying it. Leases were a useful means of helping people with small capital to take up land and had been so used since the 1860s.

The political force of the issue in the 1880s, however, was emotional rather than economic. An old world 'evil' which many Liberal politicians and voters were determined to keep out of the new country was 'land monopoly'. Many viewed freehold land tenure as an expression of pure greed, and they believed that if land fell into the hands of an elite group, they would be able to monopolise the wealth that flowed from its use. The evils of 'landlordism', including rackrenting and evictions, would follow. The most vivid pictures of the horrors of land monopoly came from emigrants from Ireland and the Scottish Highlands.

Thus, the Liberals' political future to a large extent, depended on whether they could open up more land for settlement. "Lands for the People" was their catch-cry, an objective they hoped to achieve through a dual policy of a) 'bursting up' the large estates of southern freeholders and b) acquiring Maori land.

As a new government the Liberals brought down the *Land Act (1892)*, which introduced the 'lease-in-perpetuity'; a tenure which carried no right of purchase, but abandoned the periodical revaluations. For a low rental, state tenants were to receive a 999-year lease. The tenant had most of the advantages of the freehold without having to pay for it. Accompanying the lease-in-perpetuity, was the *Advances to Settlers Act 1894* which enabled the Government to borrow money from abroad and lend it to settlers at low interest. The tenure proved popular, but naturally it was an issue which involved conflicting values.¹⁶ This ideological battle between 'leaseholders' and 'freeholders' would recur throughout the Liberal period, until the development of other resources and other means to success removed land as the absolutely dominant resource and the central focus of politics.

The *Land for Settlement Act 1894* also enabled the government to compulsorily acquire and subdivide many of the South Island estates - the busting up of great estates - and such action took the edge off the anger of the land-hungry. However, the demand for

¹⁵ Sinclair, *A History of New Zealand*, Fourth Revised Edition, p.178.

¹⁶ In most respects, leasehold was as good as the freehold. The person who held the lease could not be put off their land, and, if they wished to leave it, they could sell the goodwill on their lease for a tidy sum. However, a leaseholder could not take full advantage, as their freeholding neighbours could, of the rising land values of the time. No-one likes to be deprived of the advantages of buying and selling upon a rising market. Hence many farmers living on leased land quickly came to aspire to the freehold - or at least to a situation in which they could choose either to buy the freehold or retain their leasehold. (W.H. Oliver, *The Story of New Zealand*, London, 1960, pp.160-161.)

land was greater in the North Island. Insufficient land had been made available to satisfy public demand both for lease and freehold, and most new farmers found they could not be placed on land acquired under the Lands for Settlement legislation. All over the North Island, in press and in Parliament, Pakeha settlers were advocating that the *Land for Settlement Act 1894* which enabled the Government to acquire large settler estates by compulsion, should be applied to Maori land as well. The purchase of cheap Maori land was seen as a ready alternative in meeting demands for land, and pressure upon remaining Maori lands redoubled. The greater part of future settled lands would come, not from the monopolists of the South Island, but from the Maori of the North. In the North Island, there was slightly less than 11 million acres of Maori land in 1891. It appeared inevitable that the government would 'feast its eyes' on these lands to fulfil its promises to find land for its land-hungry supporters.¹⁷

The Liberals' great aim was to put the small settler on the land, and the continued purchasing of Maori land was vital to this aim. In order to promote closer settlement much land was still needed, and for this reason the Liberals embarked upon a programme of wholesale purchase of Maori land in the 1890s. Thus alongside the 'bursting up' of the great estates, a dual aspect of Liberal land policy became the acquisition of Maori land, and from 1892 to 1898 the Crown pursued a policy designed to remedy defects in existing titles to Maori land, and to ensure the maximum flow of land from Maori into settlers' hands.

In 1891 the new government appointed a Royal Commission to investigate the history of 'native' land legislation, and the way in which Maori were 'exploited' by European land purchasers. With the newly elected James Carroll as one of its members, and also the prominent Gisborne lawyer and advocate for Maori, William Rees, there were for the first time people who were capable of articulating a Maori viewpoint that was comprehensible to the now harassed Pakeha legislators.¹⁸ The Commission was asked to inquire into and make suggestions upon the operation of the Maori land laws, the Native Land Court, and the extent of defects in the system of alienation of Maori land. The Commission was also asked to suggest the principles on which Maori lands should in the future be disposed of, so as to benefit both Maori and European, and to promote settlement.

It was clear that Carroll was not just a token Maori on the 1891 Commission, and played a substantial role in its final recommendations. The report of the Commission produced a 'scathing indictment' of the chaos that the Native Land Court had created by not recognising tribal principle, and roundly condemned all Maori land legislation passed since 1862 and the type of transaction carried out under it. The Commission made a number of far-reaching proposals to end 'this sad state of affairs'¹⁹.

However, some of the recommendations contained in the report, which included for instance a return to Crown pre-emption with a prohibition on private land dealings, Carroll forcefully dissented from. He believed that under Crown pre-emption, the Maori had seen millions of acres of land passing from them, and he predicted that the

¹⁷ O'Brien, 'The Stout-Ngata Native Land Commission', p.5.

¹⁸ G.V. Butterworth, 'Maori Land Legislation: The Work of Carroll and Ngata' in New Zealand Law Journal, (August 1985), p.243.

¹⁹ Ibid., p.243.

resumption of pre-emption would be regarded by Maori as 'simply confiscation'.²⁰ From his position as Commissioner, Carroll warned of the approaching landlessness of Maori, and cautioned that Maori simply would not sell at all, as under pre-emption they would not be able to obtain a fair price for their land.

Further recommendations saw the Commissioners unanimously propose the creation of a Native Land Titles Court with full power to validate Maori land titles where neither fraud nor illegality was involved. More significantly, and in line with their ringing comment about tribal principle, they endeavoured to raise the level of Maori involvement in their own land transactions, recommending the establishment of a Native Land Board to have sole power of leasing all Maori tribal lands. Such boards were to be administered in conjunction with Maori Committees established to decide the boundaries and ownership of each block.

However, in 1891, the Liberals were more interested in speeding up the purchase of Maori land than in constructive innovations. They preferred a simple solution, and despite Carroll's dissenting arguments, the Government followed the Commission's recommendation and reintroduced full Crown pre-emption - ostensibly to protect the Maori from the 'evils' which flowed from free trade in Maori lands. As a result, John McKenzie, the Minister of (Department of) Lands, brought Maori land sales under government direction, and in order to accelerate its purchasing programme, the Government passed Maori land legislation in wholesale quantities during the early 1890s. These actions ensured that nearly two million acres of Maori land was purchased in the 1890s.

Brooking believes that the Liberals were able to acquire so much Maori land so quickly because they passed a range of legislation which locked together like 'the pieces of a meccano set'.²¹ It is easy to lose sight of how interconnected this legislation was because it was characterised, like all Liberal legislation, by constant amendment and improvisation - to make it work better.²² Suffice it to say that the result was a body of legislation based on a determination to work through many of the problems which at the start of the decade had been inhibiting the rapid transfer of land out of Maori hands.²³

In restoring the Crown's right of pre-emption, for example, *The Native Land Court Act 1894* freed the Crown from competition with private purchasers. Pre-emption enabled the Liberal Government to buy Maori land cheaply and sell dear to cover the cost of breaking up the big Pakeha estates. The Government appointed special purchase officers to buy land either by purchasing individual shares in blocks, or if all the owners were willing, whole blocks.²⁴

²⁰ O'Brien, 'The Stout-Ngata Native Land Commission', pp.5-6.

²¹ Tom Brooking, 'Busting Up' the Greatest Estate of All: Liberal Maori Land Policy, 1891-1911', *The New Zealand Journal of History*, Vol. 26, No. 1., (April 1992), p.81.

²² *Ibid.*, p.81.

²³ Donald M. Loveridge, *Maori Land Councils and Maori Land Boards: An Historical Overview, 1900-1952*, Prepared for the Waitangi Tribunal, Wellington, September 1996, p.11.

²⁴ In order to facilitate dealings in Maori land an incorporation clause in *The Native Land Court Act 1894* provided that a majority of the owners of any block of land in which the Crown had not acquired an interest might be constituted a body corporate.

Along with the prohibition on private dealings in Maori land, a number of other legislative measures were introduced by John McKenzie, Minister for Lands, in consultation with Carroll as 'Native Member of the Executive', to facilitate the alienation of Maori land to the Crown, so as to open the blocks up for settlement. Large areas of unused Maori land were seemingly standing in the way of Pakeha progress and the continual flow of Maori land on to the market was considered to be important to the continuing development of New Zealand. Typical of these acts were the *Native Land Purchase and Acquisition Act 1893* and the *Native Land (Validation of Titles) Acts of 1892 and 1893*.

The *Native Land (Validation of Titles) Act 1892* was designed to clear up 'irregularities' and 'illegalities' which had developed in land transactions between Maori and Pakeha, and contained provisions for inquiries to be held into incomplete or unregistered alienations. The 1893 Act, which repealed that of 1892, set up the Validation Court, which was established to streamline and investigate all disputes regarding rights to land, certificates of title, and interests in property.

The money available to government for land purchase was increased, and in 1893 the *Native Land Purchase and Acquisition Act* was passed, acknowledging the increasing settler demand for land. Formally defined, it was an 'Act designed to authorise the acquisition of land owned by Natives [sic] for the purpose of land settlement', and aimed to open up waste land '...in the interest of Maori and of Her Majesty's other subjects in the colony, and...more especially for the extension of settlement.' Seddon justified the Act by asking why should Maori starve when they had so much land. Justice was to be done to Maori by opening up their land for sale.²⁵

This Act also provided for the establishment of a Native Land Purchase Board, which was to value 'non-profitably occupied' Maori land and then offer two alternatives to the owners: sell to the Crown; or consent to its being leased by the Board. A simple majority of owners was all that was required to approve the alienation of the land and yet a two-thirds majority was needed to stop a sale.²⁶ This Act simplified considerably the purchase of communally-owned land. Maori were also liable for a 'just proportion' of any expenditure involved in surveying or leasing - an apparently 'fair' arrangement which in fact caused considerable stress for hapu.²⁷

These difficulties were made even greater because the *Native Land Court Act 1894* made it possible for unoccupied Maori land, and even pa, cultivations and burial grounds to be taken for roading and public works. Moreover, although legislation never actually directed such a result, in practice Maori owners were not allowed to keep such large pieces of their land as the big estate owners.

In the long term, government monopoly hastened rather than slowed alienation of Maori land. This series of Acts passed by the Liberals in the 1890s introduced an era in which the sale of Maori land to the Crown was greatly accelerated, and the Government was able to purchase large tracts of Maori land in a virtually non-competitive market. Extensive land purchasing was therefore resumed throughout the

²⁵ Sweetman, 'James Carroll 1887-96', MA Thesis, p.9.

²⁶ O'Brien, 'The Stout-Ngata Native Land Commission', p.8.

²⁷ Tom Brooking, "The Red McKenzie": Part II', *HISTORICAL NEWS*, No. 62., (May 1991), p.7.

North Island by the 1890s, and while much public attention was focused on the 'busting-up' of the great estates, the purchase of Maori land was more important in aiding the closer settlement of the North Island by Pakeha. Between 1891 and 1900 well over 2.5 million acres were bought by the Crown and nearly half a million by private buyers.²⁸ The Liberals' vigorous prosecution of land purchase hastened the approach of Maori landlessness.

This has led Brooking to question the Liberals' justification of this land grab and how far it explained their actions.²⁹ Furthermore, why was the Liberal Government so deaf to Maori protest against their land buying policies? It appears that in the 1890s there were three interconnected themes in the Pakeha attitude to the Maori. First, there was a belief that the Maori were a 'dying race'; second, there was a desire to obtain Maori land; and thirdly, there was a general policy of assimilation.

At the turn of the century there was a widespread belief among Pakeha that the Maori people were doomed to extinction. This was based partly on declining Maori numbers and partly on 'European unawareness of the livelier manifestations of communal Maori life'³⁰. Many Pakeha believed that it was inevitable the Maori would eventually die out, and they regarded their displacement of the Maori as being in accord with the law of nature - 'the survival of the fittest'³¹.

Pakeha, therefore, saw no need to make provision for future Maori generations and believed the government's duty was to 'smooth the dying pillow'. Nevertheless, the Liberals did not want to divest Maori entirely of their land, but saw no place for them except as subsistence farmers. The Government argued that injustice had been done only when Maori had been allowed to sell land as they chose to private purchasers, because they had become the victims of manipulative and shrewd land dealers.

Racism and condescension were evident among many Pakeha, who assumed that Maori values meant living communally, in poverty, and in filth. Thus Pakeha also believed that it was the duty of all Maori to become brown Britons and to give up all Maori values and customs. This reflected an attitude of superiority; Pakeha were conceived of as modern and progressive, and the Maori as passive and backward-looking. It was generally considered among Pakeha that if the Maori co-operated with the Government, sought education, and consented to individualise their land titles, they were sure to progress. However, no assistance was ever received by Maori in their attempts to learn to farm their own lands.

The freehold sentiment was also strong among both Pakeha settlers and some Liberals. They valued individual independence and aspired to as wide a spread of property ownership as possible. It is clearly established in New Zealand historiography that there was much condemnation of Maori in the 1850s, 1860s and 1870s as 'communists' (that is, communal land-holders) who needed to be made into individualists. This was also commonplace in the 1890s. These attitudes were based on a belief that Maori society was still hierarchical and that Maori were 'bad black

²⁸ Oliver, *The Story of New Zealand*, pp.252-253.

²⁹ Brooking, 'Busting Up' the Greatest Estate of All...', *New Zealand Journal of History*, p.89.

³⁰ Michael King, 'Between Two Worlds' in Geoffrey Rice, ed, *The Oxford History of New Zealand, Second Edition*, Auckland, 1992, p.286.

³¹ O'Brien, 'The Stout-Ngata Native Land Commission', p.59.

landlords who would rackrent their hardworking British tenants'³². Most Pakeha believed that the government must not set up a class of Maori landlords.

John McKenzie was a man of his times. He was not a conspiratorial racist; however, the 'common man' he championed was white and preferably British. Maori were acceptable so long as they could subsist and did not become a cost upon the State. Maori could also join the Liberals' 'brave new world' if they became 'modern, progressive' farmers.³³ But McKenzie, like most of his contemporaries, doubted Maori capacity to make this transition, and any policy of assimilation was merely used as a justification for taking Maori land. 'Maori instead were seen as a block to realising his dream of making a nation of family farmers and their obstruction, like that of the big estate owners, had to be removed as humanely and as quickly as possible.'³⁴

The Liberals were supremely confident that the 'progressive Pakeha settler' would use modern science to transform the bush into productive pasture much more effectively than the traditional methods of the Maori. Maori land was a 'wilderness' which lay 'useless, in waste and unproductive', blocking the settlement of the Crown lands of the colony. Most Pakeha believed that the Maori should not be allowed to hold up the progress and prosperity of the colony. To all, the Maori grip on land was an obstruction to closer European settlement.³⁵

Based on these Pakeha and government perceptions of the Maori, Brooking offers another explanation for this unimpeded land grab by the Liberals. Racism, Brooking believes, was sharp-edged in that the area of good land held by Maori was greatly reduced, but it seemed to have little to do with the elaborate justification put together by the Liberals to account for their massive land grab.³⁶ Greed, however, in the form of settler land hunger, obviously spurred the Liberal Government to action for it was undoubtedly politically expedient for the Liberals to win the electoral support and loyalty of the settlers. Large-scale Maori land buying secured the Liberals much North Island support in the 1890s, and it was only once purchasing slowed that many voters drifted away to the opposition.

Furthermore, government control of land purchasing wherein the Crown had the Maori land market-place to itself, was seen as a way to protect the small farmers. John McKenzie compared dealers in Maori land with the absentee English landlords who had cleared the Scottish Highlands,³⁷ and claimed that free trade in Maori land had only benefited a few wealthy businessmen and denied small settlers the opportunity to become farmers.

Perhaps the most striking feature in the Liberals' ideological justification of large-scale Maori land alienation was the realisation that Maori could not be allowed to become landless. Before 1907, it was recognised by the Government that a certain amount of

³² Brooking, 'Busting Up the Greatest Estate of All...', *New Zealand Journal of History*, pp.92-93.

³³ Brooking, "The Red McKenzie": Part II, *HISTORICAL NEWS*, p.7.

³⁴ Ibid.

³⁵ It appears that only a handful of politicians on either side of the House realised that Maori could be successful farmers. Sir Robert Stout, who would chair the Native Land Commission, was one such MHR who voted with the Maori members in 1891 to protest the government's land grab.

³⁶ Brooking, 'Busting Up the Greatest Estate of All...', *New Zealand Journal of History*, p.89.

³⁷ Ibid., pp.95-96.

land should be reserved to the Maori to prevent them from becoming a 'burden upon the state', and to prevent their drift to the towns. The Government saw its key role in purchasing and then redistributing Maori land as reserves or through leasing, as a method of preventing such Maori landlessness. However, in providing only just enough land for the Maori to subsist on, this justification appears as an elaborate excuse for a government which was desperate to prevent the rise of the much feared Maori landlordism.

In all, one clear agenda emerges from these justifications: the Liberal Government, in promoting closer settlement, desired the complete individualisation of Maori land tenure. Liberal Maori land policy was clearly about much more than economic gain and racial prejudice; it was also concerned with completing the process of colonisation, sharing property and wealth more evenly, and of 'extending Pakeha power and dominance.'³⁸

However well-intentioned the intentions of the Government in resuming pre-emption, it merely added to Maori grievances. It was land purchase and ensuing land loss to which many Maori objected, and despite the determined and vociferous opposition from Maori political movements and all Maori MPs other than James Carroll, 'this penultimate grab of farmable Maori land ensured that most first class land had passed from Maori hands by 1900'.³⁹ For Maori themselves, some complained of 'plunder', whilst others described the Government's policy on Maori land as 'confiscation', 'unjust' and 'designed to oppress'⁴⁰. To many, it seemed that their approaching landlessness was hastened by the very government which professed to be their protector.

Although the Liberal era has often been interpreted as a period of enlightened and progressive rule, the experience of the Maori is largely ignored. Maori agriculture had shown clear signs of growth during the 1880s. The Liberal 'land grab' of the 1890s 'stifled then shattered that recovery'⁴¹. A major factor was the loss of the remaining first-class lands, in which the proceeds of sales were often frittered away or used to repay credit, providing no enduring benefit for the Maori vendors.

Subsisting precariously on the fringe of a rapidly expanding European agricultural economy, Maori themselves were suspended between a peasantry and a Pakeha proletariat. Their living conditions were appalling, and many could scarcely grow enough crops to survive on. Many of them lived in makeshift camps, without sanitation. They were afflicted by a host of infectious diseases and the rate of infant mortality was high. Maori received little medical aid, and for the most part they had to fend for themselves.⁴²

³⁸ Ibid., pp.90-91. It has also been argued that it was unfair and unreasonable for the Government to take hold of land which was settled and producing - the large estates - without at the same time purchasing the acres of seemingly idle Maori land.

³⁹ Brooking, 'Busting-Up the Greatest Estate of All...', *New Zealand Journal of History*, p.78.

⁴⁰ *NZPD* 1894, Vol 86, p.232-233 and p.478.

⁴¹ Loveridge, *Maori Land Councils and Maori Land Boards*, p.12.

⁴² Sorrenson, 'Maori and Pakeha' in Rice, ed, *Oxford History of New Zealand*, p.165. Yet at any one time there were considerable variations in the condition of different Maori communities. Those groups which shut themselves away from European contact and land dealing, tended to be better off than those who became so involved. For instance, a remote tribe, the Ngati Porou of East Coast had shrewdly retained the best of their

Furthermore, the land laws had been designed to destroy the communal basis of Maori society. The Liberals encouraged the purchase of individual interests in blocks by Native Land Purchase Officers, whose main objectives were to acquire Maori land as quickly and cheaply as possible. Every opportunity was used by these officers to purchase Maori land, and often the weaknesses in a Maori community were 'ruthlessly' exploited. According to Butterworth, an 'unscrupulous officer could come close to destroying the social organisation and morale of a Maori community.'⁴³

Moreover, by purchasing single interests in secret, the policies of the tribal leaders were by-passed, and the whole structure of tribal leadership was threatened. Throughout New Zealand the chiefly authority within Maori society continued to wane as Maori lands were partitioned, and allocated to individuals who were often the privileged minority. Some Maori land-owners were willing to sell the patrimony of their tribe. Maori communities were sometimes fragmented, and it was increasingly difficult to withstand the insatiable appetite of the Pakeha settler for more land.

However, by the end of the nineteenth century, the Maori attitude towards the previous thirty years of unjust Maori land legislation and land transactions was one of bitterness. Maori dissatisfaction, instead of abating, continued to be expressed even more insistently. They were united in wanting the Crown to stop its wholesale purchase of Maori land under the cover of its pre-emptive right, and hui were frequently held all over the North Island endorsing the view that the Crown ought to cease purchasing Maori land. Maori generally thought that, if the present land policies were continued, the result would be to dispossess them of all their lands. The ensuing increase in Maori political activity was thus characterised by a repugnance against land alienation.

Maori raised strong objections to the legislation of the 1890s, and felt they were being denied reasonable participation in the administration of their lands. This consolidation of Maori opinion produced a consensus which primarily desired Maori self-management of the land, and the wish to retain sufficient Maori land to support the community. To them, individualism did not mean economic progress through the incentives of competition. Rather, it meant the loss of their land, and the loss of the authority and social sanctions which were the basis of traditional Maori society. Maori wanted to establish their own committees in order to make decisions about the selling, leasing, or farming of their land. They wanted to trade in a free, competitive market, and wished to use the funds to develop their remaining lands.⁴⁴

The Liberal Government's actions had convinced many Maori that the government's real objective was to obtain possession of Maori land without regard for the welfare of the Maori people. Maori Members of the House of Representatives (MHRs) such as Wi Pere and Hone Heke protested against the resumption of Crown pre-emption and government purchase, and instead favoured Maori self-management. Maori MHRs, including Carroll, also agitated for government assistance in settling Maori on their

lands and were, by the 1890s, embarked on successful ventures in pastoral farming under the leadership of Ropata Wahawaha and Paratene Ngata.

⁴³ Butterworth, 'The Politics of Adaptation...', MA Thesis, p.24.

⁴⁴ O'Brien, 'The Stout-Ngata Native Land Commission', pp.10-13.

land, and to provide them with the same practical assistance as that offered to European farmers. It was the lack of capital and agricultural knowledge which obstructed Maori farming development. Credit, which the Liberal Government lavished upon the European settler, was not readily available to the Maori.

There were some among the Pakeha Liberals who wanted Maori to be able to farm their own lands, but on the whole the political opinion was not interested in the development of Maori farming. As far as most Pakeha were concerned such Maori aspirations were seen as reflecting a 'mood of obstruction', described by some as malice. This incompatibility of Maori and Pakeha aspirations is seen especially in media attitudes such as those expressed in the New Zealand Herald, in which Maori actions were often viewed with a jaundiced eye.

After the passing of the *Native Land Court Act* in 1894, Maori objections began to be expressed more clearly and more effectively than ever before. Dissatisfaction, instead of being confined to tribal hui, began to be expressed through official channels, through petitions to Parliament, and through the Maori MHRs. Maori entered politics themselves and organised and exerted new political power of their own. That the making of the law was so completely under settler control was a major Maori grievance. More directly, however, the Maori grievance lay in the laws themselves. Through a heightened political involvement, the Maori tried to exert influence on the legislative process, and at the same time they were attempting to cope with the impact of existing legislation.⁴⁵

It was this confusion and the settler government's subsequent dismissal of Maori views that played an important role in the desire for a unified Maori body which would be able to parallel the 'Crown's exercise of an unqualified and seemingly unjust demonstration of sovereignty'⁴⁶.

Despite thirty years of frantic legislative activity, the government had remained unconcerned about Maori needs, especially Maori political aspirations. With the realisation that appeals to the Government and the Queen were hopeless and unprofitable procedures, came the development of Maori political movements with the aim of winning concessions from the settler dominated government. The Treaty of Waitangi became a symbol of Maori aspirations, and was referred to by Maori as the legal justification for the establishment of separate Maori political institutions.⁴⁷

In the 1890s there were several distinct movements of protest within Maori society, and separate Maori Parliaments were set up, such as that of the Kingitanga and the kupapa-led Kotahitanga. Land laws that were detrimental to Maori interests provided a stimulus for these movements as Maori communities sought to break out of a feeling of hopelessness. Both Kotahitanga and the Kingitanga parliaments grew out of a distrust for government policies which had caused the loss of Maori land and a weakening in tribal structure. They believed that the land laws had been passed solely to benefit the Europeans to the detriment of Maori interests. Although both remained

⁴⁵ John A Williams, Politics of the New Zealand Maori: Protest and Cooperation, 1891-1909, Oxford, 1969, p.68.

⁴⁶ Lindsay Cox, Kotahitanga: The Search for Maori Political Unity, Auckland, 1993, p.4.

⁴⁷ Selwyn Katene, 'The Administration of Maori Land in the Aotea District, 1900-1927', MA Thesis, Victoria University of Wellington, 1990, p.53.

politically separate organisations, they had many of the same objectives. Both Kotahitanga and the King Movement wanted the settlement of land grievances, and ratification of the Treaty of Waitangi.⁴⁸ The Government did not like the methods of either.

The Kotahitanga Movement, drawing support mainly from North Auckland, East Coast and Hawkes Bay, arose as a result of numerous hui during the 1880s, which found fruition as *Paremata Maori* - the Maori Parliament - at Waitangi in 1892. Searching for a basis of unity that would at once attract wide loyalty and provide an effective political vehicle, Maori leaders attempted to strengthen Maori society through self-government and retention of the land.⁴⁹ Maori of Kotahitanga wished to administer their lands, to enforce their own game conservation laws, and to try their own people for crimes arising from breaches of Maori custom. Therefore their principal goal was to set up a separate council or parliament to handle Maori affairs. A large section of the Maori community responded to this call for unity and joined the movement, and by 1898, 37,000 signatures were claimed.⁵⁰

Consequently, an independent Maori Parliament was set up which held many meetings throughout the 1890s, as Maori sought to uphold their rights and privileges as contained in the Treaty of Waitangi. Originally encouraged by Carroll, the *Paremata Maori* were not content with one meeting a year where they could present their grievances. They wanted to establish a permanent institution which would hold the allegiance of the Maori people.⁵¹

Through the Northern Maori MHR, Hone Heke, legislation in the form of the *Native Rights Bill*, was introduced to the Pakeha parliament, which if passed would have granted Maori the right of self-government. An earlier petition placed before the General Assembly by *Paremata Maori* sought Maori autonomy in the form of a Federated Maori Assembly, and also attempted to gain Maori control over their land.⁵²

Paremata Maori sought a constitution granting self-government to all Maori, in reparation for all the injustices suffered by Maori as a result of the Government's land laws. It also appealed for government land purchases and the work of the Native

⁴⁸ Ibid., p.54. The Kingitanga which had originated in the late 1850s was an attempt by North Island chiefs to unite Maori against European encroachment. It had at its heart the desire to resist the loss of Maori identity, culture, and its foundation, the land. In Parliament, Kingitanga proposed a form of autonomy for Maori, including power to control matters affecting Maori land.

⁴⁹ Although the Kotahitanga called for self-government, this was to be within, and related to the European settlement of New Zealand. The King Movement, however, tried to sever contact with Pakeha society but appealed to Parliament to legitimate its authority.

⁵⁰ The Kotahitanga movement was supported by many former staunch allies of the Government. Some include: Kemp, Te Wheoro, Wi Parata and Topia Turoa.

⁵¹ Gilmore, 'Maori Land Policy and Administration during the Liberal Period', MA Thesis, pp.153-154.

⁵² At the second meeting of the Kotahitanga Maori Parliament, *The Federated Maori Assembly Empowering Bill* was drafted, making a statement of the aims of the movement. This, with a petition, was presented to Parliament in 1893. The petition stated that the Maori people were British subjects who wished to have a cordial relationship with the Pakeha, but who had been injured by a series of bad land laws. The laws of Parliament had made Maori 'appear an ignorant and inferior people', the Native Land Court 'had ignored the existence of the rights of the chiefs', and Maori 'generally had been dispersed, and those who had homes had been deprived of them.' (Sweetman, *James Carroll, 1887-96*, p.12.) The petitioners urged the government to allow them to look after their own lands and be granted the right to set up a Federated Maori Assembly.

Land Court to cease. Over time it succeeded in establishing a fairly effective boycott of the Land Court.⁵³ The purpose of Kotahitanga - *Paremata Maori* - was to make the voice of the Maori people heard, and to provide a focus for their dissatisfaction and discontent. It was a wholly Maori body established by Maori to further Maori political ambitions, and had a firm iwi base.

However, there was little support in the Pakeha parliament for such movements, and many attempts to legalise the Kotahitanga Maori Parliament were defeated. The reaction of Europeans to the Maori Parliament was unfavourable, and reflected their stereotyped notions of Maori society. Although the Government made no sign that it would consider recognising the 'separatist' movement, many Maori leaders continued to hope, and strong supporters of the Kotahitanga movement continued agitation into the first decade of the twentieth century. They desired not only to make laws in their own Parliament, but also to administer them through a system of tribal committees. As hope for recognition of their separate parliament receded in the late 1890s, the Maori leaders came to depend more and more on these committees as the most practical basis for Maori autonomy.⁵⁴

Kotahitanga's frequent protestations of loyalty indicate that they accepted government and settlers and merely wanted amelioration.⁵⁵ They denied that they wanted to oppose the government or cause racial conflict. Their purposes were to unite the tribes, gain their Treaty rights, and establish self-government. However, the defeat of Kotahitanga's constitutional proposals finally convinced many Maori leaders to begin considering alternatives. As it became obvious that Pakeha were not prepared to support their kaupapa, 'Maori had to settle instead for a long period of uncomfortable co-operation within Pakeha political institutions'.⁵⁶

A prerequisite to Pakeha acceptance of Maori as a 'race' was the belief that individual leaders would need to establish standing in Pakeha eyes. Before Maori could be accepted as worthy of European respect, some Maori needed to enter into the Pakeha realm of politics and make a powerful and positive impact.⁵⁷ It was now that the leadership of two men - James Carroll and Apirana Ngata - became vital to Maori, who were by no means ready to withdraw into demoralised isolation. If ever there was a chance for harmony between Maori and Pakeha, it rested upon the shoulders of Carroll and Ngata, whose strength lay in their ability and competence to stand astride both the Maori and Pakeha worlds.

Accordingly in 1897, another movement appeared on the scene, the Te Aute College Students' Association, or Young Maori Party, led by Apirana Ngata. Although not a

⁵³ In 1895 the Maori Parliament worked out a common policy to force their views on the government. This policy was laid down in a 'warning to the tribes' issued by the Maori MPs, Wi Pere, Hone Heke, and Ropata Te Ao: 'Cease to sell or lease the land. Neither pass it through the Court, subdivide, nor define individual shares...If the Maoris will only cease this land dealing then favourable legislation will eventuate...Hold fighting with one another. Here now is something worth fighting for. Strive against these wicked laws that have been made to destroy our lands...' (Williams, *Politics of the New Zealand Maori*, p.72.) As a result of this manifesto and the meetings that followed, the work of the Native Land Court was stopped for a time.

⁵⁴ Gilmore, 'Maori Land Policy and Administration during the Liberal Period', p.154.

⁵⁵ Williams, *Politics of the New Zealand Maori*, p.61.

⁵⁶ Ann Parsonson, 'The Challenge to Mana Maori', in Rice, ed, *The Oxford History of New Zealand*, *Second Edition*, p.197.

⁵⁷ Cox, *Kotahitanga*, p.91.

political party, it was formed by young, western-educated Maori whose primary aims were not Maori self-government, but rather the regeneration of the Maori people through social, health and land reform. Although urging inter-racial co-operation, they pushed Maori acceptance of, and adjustment to the competitive and individualistic system of the Pakeha. The group's most prominent members were Apirana Ngata, Peter Buck, Maui Pomare and Frederick Bennett. Accompanying this group was James Carroll.

Emerging as a generation of gifted Maori professionals who combined traditional Maori leadership with the acknowledged leadership derived from the acquisition of Pakeha skills and knowledge, these men attempted to formulate definite proposals for the betterment of the Maori people, linked to goals of assimilation and progress.

The Young Maori Party (YMP) was a completely 'new...departure from previous separatist Maori political movements'⁵⁸. As a pressure group the Party worked from within the system and focused on winning the support of Pakeha politicians. To this end, it did not seem as intimidating and threatening as the King Movement or the Kotahitanga Parliament, both of which were regarded by Pakeha as retrogressive. Largely as a result of the discontent caused by government purchase, an alliance between Kingitanga, Kotahitanga and the Young Maori Party was formed in the late 1890s. The focus, however, was shifted from the attempt to achieve Maori autonomy, to land issues with the emphasis on land reservation and development.⁵⁹

The philosophy of Carroll and Ngata, and other members of the YMP, was grounded in the teaching of John Thornton, Te Aute College's second headmaster, who tended towards the emulation of Pakeha structures to strengthen and improve Maori society. Central to their campaign to improve the situation of Maori was the positive promotion of health and hygienic living.

More generally, they viewed Maori survival as linked to a partnership with the Pakeha and the adoption of European technology. The YMP focused on iwi/hapu development and sought to retain some traditional Maori values, while discarding customs which were deemed antiquated. They appealed to the Pakeha by advocating that the Maori ought to acquire the skills and knowledge of the European, and to fully participate in the European economy. It was this concentration upon social reform, rather than an emphasis upon past grievances, which made Carroll, Ngata and the YMP more acceptable to European settlers and politicians.⁶⁰

Carroll, of dual Maori and Pakeha descent, was a visionary man who effectively played a mediatory role in the area of Maori and European relations. He expressed Maori opinions in Parliament, yet did not always act according to Maori demands, for he was a man of two worlds with a foot in both the Maori and European camps. He understood Maori desires to retain their land, and European pressures, both political and economic, to sell. He also understood that Maori were opposed to selling, but resented any curtailment of their right to sell.⁶¹ As the first person of Maori descent to

⁵⁸ Katene, 'Administration of Maori Land in the Aotea District', p.57.

⁵⁹ O'Brien, 'The Stout-Ngata Native Land Commission', pp.12-13.

⁶⁰ Cox, *Kotahitanga*, pp.91-93.

⁶¹ Katene, 'Administration of Maori Land in the Aotea District', p.382. James Carroll initially entered Parliament elected as the MP for Eastern Maori, however he was later elected to represent the General

become Native Minister, Carroll was noted for leading a calculated policy of delay and minimal concession - 'Taihoa', as contemporaries usually labelled it - against land-hungry Pakeha settlers. As the driving force behind the redirection in Maori land policy, Carroll was to dominate Maori politics for the next decade.

Carroll considered the settlement of Maori on their own land as central to their advancement as a people, and believed that the government had a 'solemn duty' to protect the Maori and to settle them on their own land. Realising that land alienation was unstoppable, his *taihoa* policy aimed to prevent the permanent and large-scale alienation of Maori land until a new generation of Maori had arisen who would be able to farm it for themselves. His strategy was to slow down the pace of land sales and to encourage the short-term leasing of surplus Maori land, which would have left the Maori tribes and individual owners with more control over their land. Carroll's plan also included the use of rent monies to finance development and utilisation of the remaining Maori land, in order to provide for the day when an educated and agriculturally-skilled Maori population could utilise the land fully. His concession to Pakeha land-hunger was that under the principle of lease, the land would still become available for Pakeha settlement, albeit on a leasehold tenure rather than a freehold one.

In opposing any further sales of Maori land, Carroll believed that too much Maori land was being alienated to private purchasers, and wanted the balance of remaining Maori land to be reserved absolutely for their use. But he did realise that the reservation of all Maori land in the North Island, including the so-called 'non-profitably occupied' blocks, would be politically unacceptable in the face of both Liberal and conservative opposition. Thus, with the assistance of Ngata, Carroll attempted to find a balance between Pakeha desire for Maori land and the need for Maori to retain their land base. He suggested that Maori keep the land they could use, and pass the rest over to the government. Both Carroll and Ngata accepted the need for some land alienation, but wished to minimise selling.⁶²

The development of autonomous Maori parliamentary bodies - such as *Paremata Maori* - was seen by Carroll and Ngata in particular, as an inappropriate mechanism in the light of Pakeha reluctance to relinquish control over Maori and their lands. Carroll did not see separatism as the answer to the Maori problem, and instead believed in assimilation. It was his lifelong aim to bring the two peoples into closer harmony - not by sacrificing Maoritanga, which included Maori rights over their land, but by promoting understanding and co-operation on both sides. In addition, speaking against Maori moves toward separation, Carroll and Ngata stressed the importance for Maori of utilising their land. They constantly urged Maori to direct their energies

Electorate seat of Waipau. Carroll, indeed, sat in a delicate position with the hunger for land and settlement on the part of his constituents; and a desire to retain the land on the part of those he was supposed to be representing in Cabinet as Native Affairs Minister. His ultimate answer was assimilation, as in this way the interests of both sides would become one. The many contradictions in Carroll's position leave doubt whether he was primarily the spokesman of the Maori in the government, or merely the spokesman of the government to the Maori.

⁶² However, in their determination to retain the bulk of land to which they were accustomed, having hailed from the East Coast where there were still large areas of Maori owned land, Carroll and Ngata were not averse to sacrificing the smaller and scattered lands of other tribes from outside their own area.

toward agriculture rather than politics. Ngata's message to Maori land-owners was clear - 'use the land or lose it'.

Ngata saw the Maori of the future as a farmer. The land was to be the sole basis of a life uniting tribal society and modern efficiency.⁶³ But in order to do this, the Maori needed finance, and agricultural training as well. Many Maori at the time, even when they possessed the farms, did not know how to improve them. Thus, to succeed in a Pakeha economy, Maori had to modify tradition and convert themselves into pastoral farmers. Ngata saw education, finance and hard work as the weapons in this battle to develop the land. Both he and Carroll believed that it was the government's responsibility to provide for the profitable utilisation of Maori lands, by assisting and advising Maori in the development and advancement of their lands until such time as they reached an equal footing with the Pakeha.⁶⁴ Delay was indeed part of Carroll's strategy, but it was employed for specific purposes: he wanted to compel Maori landowners to either make use of their lands or allow others to do so.

By the end of the 1890s the separatist Kotahitanga campaign was petering out, whilst Ngata continued to work in a crucial mediating role for the ideas he had first developed early in his career. He was convinced that the New Zealand Parliament afforded the only hope of redress, and pressed for a system that allowed the Maori to manage their lands themselves, but under government supervision. Under Ngata's influence Maori began to frame some long term proposals regarding Maori land policy that were acceptable to the Liberal Government. Both he and Carroll fulfilled the function of articulating Maori needs to Pakeha audiences. Through their work, Pakeha learned that Maori problems ought to be addressed by Maori and resolved through Maori customs and beliefs, albeit with significant modification to meet new times.⁶⁵ The general direction of twentieth century Maori legislation is thus foreshadowed by the issues of Maori politics of the 1890s.

By the turn of the century, the Maori political scene was characterised by a resistance to the alienation of land, by a growing awareness of the need for greater Maori control of land, a genuine desire for some measure of self-determination, and by Ngata and Carroll urging adoption of the Western way of life.⁶⁶ Maori also wished to see the end of Crown pre-emption. In response to this Maori pressure, and out of a growing concern that excessive purchases might make the Maori landless, Seddon agreed to retreat from the government land purchase programme. Having pursued a policy of vigorous land purchase, the Government found itself in the possession of sufficient land to satisfy the immediate demands of the Pakeha settlers, and accordingly considered itself in a position to suspend purchase operations.

Appointed as Minister of Native Affairs in December 1899, James Carroll believed the time was ripe for legislative intervention. To answer the repeated and persistent calls by the *Paremata Maori* for legislative recognition, he introduced into Parliament the *Maori Land Administration Act* and the *Maori Councils Act* both of 1900. Both somewhat

⁶³ Oliver, *The Story of New Zealand*, p.262.

⁶⁴ In particular Carroll believed that the Government should encourage Maori to settle their land by offering them the same practical assistance and advice that was so readily made available to European farmers.

⁶⁵ Cox, *Kotahitanga*, p.92.

⁶⁶ Katene, 'Administration of Maori Land in the Aotea District', pp.57-58.

of a departure from Liberal policy,⁶⁷ their appeal was based on the principle of compromise: between Maori aspirations for local autonomy in the administration of their lands, and settler pressure for more Maori land. Parliament did not grant all that the Maori had asked - many Maori leaders had aspired to complete governance of their own lands - but the legislation was thought to be a step in the right direction. 'It ushered in a system that gave Maori a degree of control in the management of their lands, but on European terms'⁶⁸.

Over the next three years Carroll, supported by Ngata, moved to gradually implement this committee-based legislation. Nick-named the '1900s Experiment', the *Maori Lands Administration Act* provided for the establishment of Maori-dominated Land Councils to control the leasing of Maori land, whilst the *Maori Councils Act* established elected Maori councils which were designed to confer a limited measure of local self-government upon Maori. Both of these council structures were responses to Maori demands for involvement in land administration,⁶⁹ and also represented somewhat of a modification of the Liberals' policy, with legislation moving towards the promotion of leasing Maori land.

The preamble to the *Maori Lands Administration Act* spelt out Carroll's hopes that the residue of Maori land now remaining in the possession of Maori owners would be reserved for their use and benefit, with the aim of allowing Maori to reap the benefit of their lands without further alienation. The purpose of the Act therefore was 'to make provision for the better settlement and utilisation of Maori land, to encourage the Maori in industry and self-help, and to see that sufficient lands were reserved for Maori use.' Other objectives of the legislation appear to have been to establish the principle of leasing as against sale of Maori land, to prevent a repetition of the wholesale Crown and private purchases of the previous decades, to offer opportunities for local administration of Maori land, and to provide a breathing space for the development of Maori farming skills, so that Maori could undertake to utilise their land fully.⁷⁰ With Crown purchases for a time discontinued under the *Maori Lands Administration Act*, Carroll had also persuaded his colleagues that by allowing voluntary leasing he would be able to make available large areas of land without the trouble and expense of purchasing it from its owners.⁷¹

Under the Act, provision was made for the leasing of land for settlement through the establishment of seven North Island Land Councils, on which Maori had majority representation. These Councils were intended to act as agents for Maori wishing to

⁶⁷ According to Loveridge (*Maori Land Councils and Maori Land Boards*, p.90.), the 1900 Maori Lands Administration legislation in fact stands out as an anomaly in the record of Liberal policy, when set against what had come before and what was to follow.

⁶⁸ Katene, 'Administration of Maori Land in the Aotea District', p.58.

⁶⁹ Cox, *Kotahitanga*, p.95. See *Appendix Seven* in Cox, p.210-211, for a copy of *The Maori Councils Act 1900*.

⁷⁰ R. J. Martin, 'The Liberal Experiment' in J.G.A. Pocock, ed, *The Maori and New Zealand Politics: Talks from a NZBC Series with additional Essays*, Auckland, 1965, p.52. According to Butterworth, *the Maori Lands Administration Act* recognised in principle: a) that further purchase of land was against Maori interests and should be stopped; b) that where the Maoris [sic] showed a capacity for land administration, they should be encouraged and assisted by the State; and c) that the process of determining titles to Maori lands should be made as simple and inexpensive as possible. (Butterworth, *Sir Apirana Ngata*, Wellington, 1968, p.10.)

⁷¹ Butterworth, 'Maori Land Legislation...' *New Zealand Law Journal*, p.244. Many of the leases under *the Maori Lands Administration Act*, were fixed for a term of twenty-one years, with the right of renewal for a further twenty-one. This length was set, according to government, so as to prevent Maori lands from 'lying idle'.

lease their lands, and could create papakainga (inalienable communal reserves).⁷² Land fully owned by individual Maori could be sold, although a primary aim of the land councils was to lease unused Maori land. It was their task to ascertain ownership titles and succession, to define relative interests, to partition the land, and to appoint trustees for minors and disabled Maori.⁷³

Furthermore the original intention at the time of establishing the Maori Land Councils was that they would come to take over all the functions of the Native Land Court. It was probably hoped that these Councils, consisting of Maori as well as Pakeha members, would have greater success than the Court in winning the confidences of the Maori people. Although the Native Land Court was not abolished, the councils were given some judicial powers to determine the ownership of customary lands, and to adjudicate upon the rights and duties amongst tribal members. None of the powers conferred upon the Land Councils, however, were to be exercised unless so directed by the Chief Judge of the Native Land Court, who had the power to both initiate and approve Land Council judicial operations. Furthermore, any and all orders issued by the Land Councils were to be forwarded to the Chief Judge for approval.⁷⁴

The *Maori Lands Administration Act* also imposed restrictions on leasing and sales. It provided that Maori land owned by more than two owners was inalienable by way of lease except with the consent of Council. It also allowed for Maori landowners to transfer their lands to the Council by way of trust, for the purpose of leasing or managing their holdings, or even to raise money for improvements.⁷⁵ However, before the councils could approve any land transactions, they had to satisfy themselves, and issue a papakainga certificate, declaring that the Maori owners had sufficient other land for their maintenance and support. This papakainga land was to be absolutely inalienable.

However, the vesting of land in these councils was to be voluntary. Maori landowners were not compelled to bring their lands under the umbrella of the Councils, and could withhold their lands from council jurisdiction, if they so wished. Nevertheless, the legislation was important because, whatever its weaknesses, it involved Maori in the process of decision-making. A strong emphasis was placed on leases, rather than sales of freehold land, which served to keep lands in Maori ownership while ensuring that those which the owners themselves could not utilise were available to others who would. Income from leasing lands which were surplus to requirements would provide owners with capital for the development of their remaining holdings, with the papakainga ensuring that a sufficient amount of land remained available for

⁷² Each of the Maori Land Councils consisted of not less than five, nor more than seven members, one of whom, always a European, was the President. Three of the seven members had to be elected by Maori in their districts; of the other four nominated members, one had to be a Maori. The North Island was divided into six Maori Land Districts with a Land Council for each district.

⁷³ The Councils were also given the power to set up Block Committees to investigate land titles and to define individual interests in land.

⁷⁴ The Chief Judge of the Native Land Court also acted as the first stop in the process of appeal. (Loveridge, *Maori Land Councils and Maori Land Boards*, pp.35-36.)

⁷⁵ Katene, 'Administration of Maori Land in the Aotea District', pp.68-69.

Maori maintenance and support.⁷⁶ 'For a while these councils impeded the acquisition of Maori land, in line with Carroll's *taihoa* policy.'⁷⁷

The *Maori Councils Act 1900*, which Maori played a large role in putting into operation, was designed to address important goals of social reform, and set up Councils designed to promote the health, welfare and moral well-being of the Maori. Created along the lines of local authorities, these councils recognised the communal nature of Maori organisation and used these structures to supervise Maori affairs. The Act in effect constituted formal committees along the lines of the traditional informal committees of Maori society.⁷⁸ By providing for a measure of local self-government the Act sought with government authority to bolster the declining status of the chiefs. Realistically, however, the councils had powers considerably less than those exercised by local authorities.

Maori were given representation by appointment and election on the Councils, which were set up in nineteen tribal districts. With some operating vigorously through tribal leaders and committees,⁷⁹ the principal tasks of the councils were to promote health reform and regulate sanitation, encourage education, and to control the consumption of liquor. Developed to attain improved sanitation in Maori villages, the enactment and enforcement of sanitary regulations was an issue that provided Carroll with sufficient support within the Seddon administration to secure passage of the legislation. The *Maori Councils Act* also gave Maori power to deliver their own justice with regard to the transgression of traditional Maori customs and law.

One indirect result of the passing of the *Maori Councils Act*, was that Ngata was able to persuade the Kotahitanga Movement voluntarily to dissolve itself. Carroll argued that the new councils would be doing the same work as *Paremata Maori*, in that the Act allowed for annual national conventions of Maori council representatives to be held,⁸⁰ bringing together elected Maori representatives from all over the country. This argument was perhaps central to Maori acceptance of the system and the decline of Kotahitanga. The Liberal Government, Carroll, and Ngata had hoped to divert support from the *Paremata Maori*; and they succeeded.

With the '1900s Experiment' largely encouraged by Carroll, Ngata and the YMP, Maori tribal and political unity based on Maori structures and aspirations had been all but supplanted by the might of the State. By the close of the century, Kotahitanga had given way to acceptance of this most recent legislation which promoted leasing and gave Maori very limited legislative authority over their land.⁸¹

⁷⁶ Loveridge, *Maori Land Councils and Maori Land Boards*, p.39.

⁷⁷ Cox, *Kotahitanga*, p.96. ie: The 1900s legislation intended, through the use of the lease policy, to postpone the decision as to what should be done with the problem of Maori land in New Zealand until such time as the Maori had reached an equal footing with the Pakeha.

⁷⁸ Martin, 'The Liberal Experiment' in Pocock, ed, *The Maori and New Zealand Politics*, p.53.

⁷⁹ The overall administration of the councils was delegated to a superintendency of the Maori councils whose officers included Gilbert Mair, as Superintendent, and Ngata as Organising Inspector.

⁸⁰ Cox, *Kotahitanga*, p.96. As a result of the 1900s legislation, the Liberal Party succeeded in distracting Maori from the Kotahitanga movement as exemplified by the *Paremata Maori*.

⁸¹ The dissolution of Kotahitanga quieted reactionary chiefs, as the turn of the century saw educated Maori attempt to concentrate on a programme of land development and social reform.

The legislation of 1900 which had created the Maori Land Councils and ended the purchase of Maori land was a compromise between conflicting Pakeha and Maori interests. The Government and Pakeha settlers hoped that it would end the deadlock in Maori land alienation and enable them to take up land more rapidly, whilst the Maori hoped that it would enable them to determine their own titles and settle as agriculturists on their own land.⁸²

The government tried hard to ensure the success of the acts by gaining full Maori approval. The Maori Councils, under the guidance of Ngata as Organising Inspector, and Maui Pomare as Native Health Officer initially did good work,⁸³ and there was a 'zealous pursuit' of reform displayed by the councils in the early years of their existence. Between 1900 and 1905 the Government's Maori land administration policy, seen as a concession to Maori feelings, demonstrated a marked concern for their grievances and a genuine willingness to involve Maori in settling them.

By the time the *Maori Lands Administration Act* was passed, Maori opinion, though divided on many points, was almost unanimous in asking that the Crown cease the purchase of Maori lands, and that the management and administration of their remaining lands be left in Maori hands. Consequently, the development of the councils on which Maori were to be represented was a gesture towards conceding to Maori their desire to administer their own lands. Most Maori members adopted Carroll's viewpoint and supported the *Maori Lands Administration Act* because it put an end to the purchase of Maori land by the Crown and confirmed their preference for alienation by lease rather than sale. Consequently, they were able to persuade the Maori people to view the Government more tolerantly, and to work with the new system of land administration.⁸⁴

The ending of the Kotahitanga movement and the majority decision of Maori to work their grievances through official channels, indicated a preparedness to co-operate with the Government. Although some were reluctant to vest their lands in the Maori Land Councils, they did not appear to be totally disillusioned with the Liberal's new Maori land policies. Instead, Maori accepted the legislation as a step forward in the right direction. From the Maori viewpoint, the Government had introduced a new institution, which unlike the Native Land Court, seemed to be responsive to Maori needs and to give Maori leaders an important role. For a time protest was ended, and economic and social progress preoccupied the Maori people.

At first sight, these acts of 1900 held out a promise of a productive future for the Maori and the administration of their land. But the Maori Land Councils which were the actual machinery by which the government implemented its policy, were in reality an unworkable compromise between opposing European and Maori interests. Maori support for the measure was a matter of expediency rather than approval of the policy as a whole. Maori had always favoured unrestricted freedom of dealing and

⁸² Williams, *Politics of the New Zealand Maori*, pp.117-118.

⁸³ Despite all the limitations of their powers and funding, the Maori Land Councils did important work in health matters. And according to Butterworth and Young, they did contribute to a sustained rise in numbers and a significant improvement in Maori life expectancy in the 1900s. (G.V. Butterworth and H.R. Young, *Maori Affairs: a Department and the People who Made It*, Wellington, 1990, p.62.)

⁸⁴ The attitudes and reactions of these individual Maori MPs helped determine the co-operation or lack of co-operation from Maori of their specific electorates.

had frequently expressed their desire to be left alone to decide what they would do with their land. Although Maori aims and hopes were recognised 'in principle' by the legislation, there was still the unsolved question of how the Government would interpret, and if, it would administer the Acts.⁸⁵ In fact such a compromise proved difficult to maintain.

There was a division of opinion between the interests of the Liberal politicians, who had hoped that large areas of land would be vested in the Councils for leasing, and the Maori owners who wanted titles ascertained and interests defined without the protracted sittings and expense of appearing before the Native Land Court. Enthusiasm gradually waned for the Maori Land Councils as it became clear that the Government would not relent from its decision not to grant the councils wider powers. Pakeha domination of the councils seemed to the Maori to mock the assurance that they would be free to control their own destiny. Thus, Maori suspicion and government pretence quenched any hope of the legislative promise turning into reality.

Moreover, the number of Land Councils was confined to seven to coincide with the Native Land Court districts. This meant the areas were too large, so that tribes who had no common interests and who were often traditional enemies were included in the same council. Furthermore, the powers of the Maori Councils were too limited and those heading them were often too inexperienced to make them work efficiently. The government also appeared loathe to make available the required staff and finance. Consequently, the Councils remained seriously under-resourced, and under-financed by the Government; rendering them largely inoperative.

By 1905, the weaknesses of the District Maori Land Councils were apparent to all. They had limited powers, were inadequately funded, and were subject to constant bureaucratic interference. Inadequacy at a national level allied with government indifference proved an important factor in the failure of the Councils. The Maori had seen the Councils as organs of full self-government, and when it became clear their functions would not be extended, they tended to lose interest. Indeed, according to Judith Binney, 'they proved to be no experiment in Maori self-government.'⁸⁶

Any concessions granted by the 1900s legislation towards greater Maori independence were more apparent than real, and fell short of the demands which were being voiced by adherents of the Kotahitanga movement. Despite Maori hopes, the whole thing was a very nominal gesture, where the majority of Maori landowners had no more, in fact probably less voice in the administration of their lands, than previously. The Maori Land Councils gave the Maori limited opportunity for local self-government, but it was obvious that this was as far as the Government would go in conceding the

⁸⁵ Butterworth, 'Politics of Adaptation', MA Thesis, p.45.

⁸⁶ Judith Binney, 'Amalgamation and Separation 1890-1920', in Judith Binney, Judith Bassett and Erik Olssen, The People and the Land: Te Tangata me Te Whenua: An Illustrated History of New Zealand 1820-1920, Wellington, 1990, p.206. After 1900, Maori organisation tended to revert to consultation and formation of policy within and between individual tribes. The exceptions were occasional inter-tribal hui to discuss national Maori issues at places such as Waahi and Parewanui. Efforts to preserve independence continued on a local and tribal basis. The majority who refused to accept the Maori Councils Act included the Tainui tribes who supported the Kingitanga.

Maori wish for autonomy.⁸⁷ In Maori eyes, the land councils were government and settler institutions, not Maori. It soon became apparent that Maori landowners were deeply mistrustful of this government-controlled system of land administration, where they were held no power to deal with their own lands beyond that of indicating to the councils whether or not they were prepared to vest their lands for administration. In response, Maori retaliated by withholding their land from council jurisdiction.

The Government had hoped that the Maori would prove willing to vest their lands in the Maori Land Councils so that the balance of Maori lands could be opened up for Pakeha settlers by way of competitive leasing. However, Carroll's preferred strategy of compulsory leasing did not find favour with all Maori landowners. Some Maori disliked having their right to deal with their own lands curtailed, and there were also many who believed they could get better value for their unused lands if the restrictions were removed.

While the *Maori Lands Administration Act 1900* seemed to herald a new era in Maori land dealing, it did not produce a rapid turnover of Maori land to the councils. The period was marked by caution on the part of Maori owners, who were reluctant to relinquish their right to administer their own lands. Maori elders were deeply suspicious of the good faith of the Pakeha and were unwilling to allow control of their lands to pass from them. They feared that the Maori Land Councils would not lease the land on favourable terms to the owners, and believed that they could do better acting on their own behalf.⁸⁸

Although some concession as to Maori representation on the Councils was made, the returns of 1900 to 1905 show little inclination on the part of the Maori to surrender control of their lands to a Council. Loveridge writes that:

'Given the long-term loss of control over land which...went with vesting, it should hardly have come as a surprise that many owners would want to wait and see how the Maori Land Council experiment was going to work out before committing themselves. Many landowners may also have been wary of the new system because they did not understand how it worked.'⁸⁹

In the first four years of operation only 174,075 acres were vested in the Councils.⁹⁰ Thus although Maori agreed not to reject the legislation of 1900 because it at least forestalled the alienation of Maori land, very few Maori vested lands in the councils. This reluctance by Maori displayed a 'stubborn' opposition to the scheme.⁹¹ Overall then, the Government's 1900s land policy was not well received and during the first few years of operation the Government had limited success in persuading Maori landowners to vest their holdings in the Land Councils. Encountering such

⁸⁷ Gilmore, 'Maori Land Policy and Administration during the Liberal Period 1900-1912', p.155. Furthermore dissatisfaction with the lack of Maori representatives in Parliament had also been growing amongst some Maori since 1900.

⁸⁸ Sir Robert Stout and Apirana Ngata would comment in 1907 that 'the Act of 1900 was doomed to fail' because Maori landowners were unwilling to entrust their lands to the Maori Land Councils. (AJHR 1907. G.-1c, p.7.)

⁸⁹ Loveridge, *Maori Land Councils and Maori Land Boards*, p.51.

⁹⁰ Butterworth, 'The Politics of Adaptation', MA Thesis, p.46.

⁹¹ Gilmore, 'Maori Land Policy and Administration during the Liberal Period 1900-1912', p.6. and p.30.

difficulties, the Councils were thus limited to determining land titles with very little land being made available for lease to European settlers.

As far as the Pakeha public and politicians were concerned, their sole criterion for appraising the success or failure of the '1900s Experiment' was gauged by the amount of 'idle' Maori lands which had been brought into European production. From a Government perspective, the concept of tribal control and administration of ancestral lands as advocated in the 1900s legislation, was acceptable to government only if it opened up land for European settlement. It failed to do that. The Government regretted that their policy of leasing rather than purchasing was not freeing up enough Maori land for settler use; few lands were actually vested in the Councils to lease.

While the Government felt that the residue of Maori land should be reserved for the use and benefit of the owners, it could not, in view of the pressure for land, allow these lands to be 'idle'. There were strong criticisms from European sections of the population, who felt that the Maori lands lying unproductive and unoccupied should be taken over by the State. Angry that so few 'idle' Maori lands had been brought under settler control, Pakeha attitudes to this lack of availability of Maori lands were openly hostile. Accusing Carroll of pandering to the Maori, Pakeha protest became increasingly insistent, with a vigour the Liberal Government would find hard to ignore.

The other main elements of the Opposition and settler assault against Liberal Maori policy were the accusations that Maori were not paying their fair share of local rates and taxes, and that the Government's policy did not truly protect Maori because it did not encourage self-reliance through individual labour.⁹² Maori were seen by Pakeha as idle rent-receivers who without paying local rates still used the new roads and bridges, and then benefited from the increased land values resulting from these improvements. According to the leading Opposition spokesman for Maori Affairs W.H. Herries, it was high time that the Maori were given the same responsibilities as Pakeha, alongside the privileges of citizenship.⁹³

Conservative MPs and their European supporters advocated individualisation and free trade, and continued to pressure the Liberal Government at the turn of the century. They resented the Government's intrusion into Maori land matters because they believed that more land could have been opened up to Pakeha settlement had settlers been able to deal directly with the Maori. They also maintained that Maori land should have been individualised to allow each owner to become fully capable of making an independent choice - either to farm or sell the land.⁹⁴

The perceived shortage of land available to the Pakeha often exacerbated racial tension, and it was not uncommon for traces of overt racism to emerge in expressions of British superiority over the Maori. Pakeha coveted land suitable for dairying and

⁹² Williams, *Politics of the New Zealand Maori*, p.123.

⁹³ *Ibid.*, p.124.

⁹⁴ In reply to these Pakeha calls for individualisation of Maori land, Ngata maintained that 'individualisation must wait until the Maori became advanced in business acumen. If the 'free-traders' policy of individualisation was expected to bring the Maori into the same position as the European in land tenure and disposition, a fair start should be given to the Maori, otherwise their relative position would not be analogous.' (Gilmore, p.38.)

mixed farming. When Maori blocks lay seemingly idle, it was taken as evidence of Maori unworthiness to own land or of racial and cultural inferiority.⁹⁵ Maori were accused of laziness, and the perceived lack of will to work on the part of Maori was believed by many to emanate from their social organisation. The 'communistic habits' of the Maori were widely derided by Pakeha who believed that communism prevented individuals from working hard. Pakeha individualisation of the rewards of labour was considered to be the solution for the Maori which would lead to greater industry and hence progress for both races.

The issue of Maori 'landlordism' whipped up anti-Maori prejudices among many Pakeha settlers, and media attacks, particularly cartoons of Maori landlordry became more frequent and more virulent.⁹⁶ The implication was that no self-respecting European would be willing to accept a Maori lease and pay rent to a Maori landlord.⁹⁷ The anti-Maori landlord sentiment served to reinforce the European preference for the purchase of Maori land, rather than just leasing it.

The strongest objection to the system of leasing Maori land was that it would develop an 'insidious Maori landlordism'⁹⁸ with Maori who paid no taxes or rates and did not work the land, but who still earned rent from the land they owned. Pakeha felt it to be unfair that the leasing of Maori land should secure unearned increment in the form of rent and rising land values from its development for its Maori owners, rather than for the state or settlers. Having emigrated to New Zealand to escape the British system of landlordism, the settlers, as well as the Opposition, criticised the Government for aiding the creation of a 'privileged, hereditary Maori landlordry'.⁹⁹ For Pakeha settlers, a Maori landlord combined two enemies: the old world landlord and the new world 'savage'.

Pakeha rationalised this belief by claiming that 'Maori landlordism' was against the interests of the Maori, where it would induce drunkenness, idleness and debauchery, and 'every kind of vice that will degrade the race.'¹⁰⁰ It was argued that Maori had to work for themselves rather than being 'idle' rent-receivers. And if Maori were not prepared to be industrious and work for their living, it was claimed that the land should in all fairness be passed on to those Pakeha willing to work the land.¹⁰¹ The rhetoric was often patronising towards Maori, with some Pakeha parliamentarians expressing a distorted perception of the welfare of the Maori:

⁹⁵ Michael King, 'Between Two Worlds', in Rice, ed, *Oxford History of New Zealand, Second Edition*, p.290.

⁹⁶ A study of the cartoons which lampooned the *taihoa* policy was done by G.G.Vince MacDonald, 'The Evolution of Socio-Political Cartoon Satire in the New Zealand Press during the Nineteenth and early Twentieth Centuries: Its Role in Justifying the Alienation of Maori Lands', MA Thesis, University of Canterbury, 1995.

⁹⁷ Katene, 'Administration of Maori Land in the Aotea District', p.64. Katene continues that 'no system of Native [sic] land legislation which creates and takes precautions to perpetuate a system of Native landlordism will be tolerated by the people of the colony.'

⁹⁸ O'Brien, 'The Stout-Ngata Native Land Commission', BA(Hons) Essay, p.61.

⁹⁹ *New Zealand Herald*, 21 January 1907, p.4. The New Zealand Herald presented a picture of Pakeha hardship and suffering whilst Maori sat back and squandered their undeserved wealth. (See also *NZ Herald*, 8 March 1909, p.4.)

¹⁰⁰ O'Brien, 'The Stout-Ngata Native Land Commission', p.62.

¹⁰¹ Business people in the secondary centres and small country towns who increasingly provided the hardcore of electoral support for the Liberals, also wanted to see the land developed - for profitable speculation, and for the security to invest in substantial buildings on freehold sites.

If you are enabling the Natives [sic] to secure all these blocks of land, and so of becoming a Native landlordry, you are doing them no good. They are settling down into a condition of idleness consequent upon their being able to live without labour upon the proceeds from rents of reserves.¹⁰²

Believing that rising land values rewarded their own hard work, Pakeha settlers found it increasingly difficult to endure the notion of leasehold where the Maori seemingly lived off the labour of the Pakeha. Many farmers began to see the Liberal commitment to the leasehold of Maori land as a threat to their farms and their vision of New Zealand. This was too much for many Pakeha to endure in silence, and in 1901 a group organised the New Zealand Farmers' Union to protect their interests. This group were increasingly dissatisfied with the Liberal Government's vacillations on the question of the freehold.

Supported by the vocal Farmers' Union, Pakeha made vociferous protests, demanding the right to the fruits of their labour. From a position of self-interest in the alienation of Maori land, Pakeha settlers thus rejected the leasehold tenure which did not satisfy their demand for land ownership, and agitated for the freehold.¹⁰³ With such pressures on the Government, it was only a question of time before full-scale land purchasing would have to be resumed.

During the first decade of the twentieth century Pakeha demands for land had grown. However, by 1905, only 35,000 acres of Maori land had been vested in the Councils to be made available for settlement by lease. The Government had promised settlers when the 1900 bills were passed, that the North Island 'waste lands', some eight million acres lying idle should be dealt with. However, according to Pakeha, by 1905, hardly anything had been done.¹⁰⁴

Carroll was increasingly attacked by the Opposition and by settlers for his *taihoa* policy, which delayed sales and advocated leasing. The build-up of Pakeha protest, indignant at policies which seemed to encourage Maori 'landlordism' and Pakeha landlessness, ultimately made revision of the 1900s legislation politically necessary for the Liberals. Carroll was forced to yield, and a change of tactics was essential. The Government was forced to admit that the existing Maori land policy had failed to reconcile the conflicting claims of Maori and Pakeha.

Maori dissatisfaction with the Liberals' turn of the century land administration policies strengthened somewhat after 1905, when as a result of the failure of the Maori Land Councils to deliver enough land into Pakeha hands, Seddon's Cabinet decided to resume large-scale purchases of Maori lands. Believing the Government intended to use compulsory provisions to acquire their land, Maori opposition began to surface in agitation for better conditions in Maori land administration, and a return to the spirit of the Treaty of Waitangi.¹⁰⁵ Haunted by the spectre of confiscation of tribal land for

¹⁰² Katene, 'Administration of Maori Land in the Aotea District', p.64.

¹⁰³ Furthermore, the *taihoa* policy and 1900 legislation with its emphasis on alienation by lease rather than sale, did not satisfy the settlers, who wished to benefit directly from the rising land values by acquiring the freehold of their farms at its original value and then selling it at the current market value.

¹⁰⁴ B.R. Gilmore, 'Maori Land Policy and Administration during the Liberal Period', p.35.

¹⁰⁵ At this time, the Maori still cited the Treaty of Waitangi as the basis for their rights, and they still called on Britain to intervene directly in Maori affairs. They still wanted legalised Maori committees. However, according

Pakeha settlement, and alarmed at the rapidly decreasing acres of Maori land left for their personal support, Maori held large protest meetings throughout 1904-1906 calling for changes to the 1900 Maori Lands Administration Act.¹⁰⁶

Maori opinion thus became increasingly concerned with the antagonistic attitudes of the farmers' organisations, and Pakeha settlers in general. This concern seems warranted, as it became clear that settler impatience generally, compounded by the manoeuvrings of opposition politicians, made a substantial contribution to the apparent failure of the 1900 system. The accusation that the Maori Land Council system held back European settlement by locking up Maori land, thereby jeopardising the prosperity of the colony, was heard frequently throughout 1903-1905. This allegation was to form the centrepiece of the attacks on the Government's Maori land policy which led to major alterations in the 1900 legislation.

According to Richard Martin, 'the policy enunciated in 1900 was paternalistic, a compromise which satisfied neither the Maori who wished mainly for cessation of Crown purchases at non-competitive prices and for freedom of trade; nor the 'free-traders' who advocated speedy individualisation of title and a policy which in the matter of land disposition, would place the Maori in the same position as the Pakeha.'¹⁰⁷ The Liberals had high hopes for the Maori Land Councils, but growing Maori dissatisfaction, strident attacks by the Opposition in Parliament, and criticism in the newspapers, forced the reconsideration of the Government's Maori land policy in 1905. What resulted was a conciliatory policy with which the Government hoped to placate land-hungry settlers to some extent whilst continuing in its resolution to protect Maori from becoming landless.

However, under pressure from its own supporters and in the face of opposition attacks, the Government steadily reversed its Maori land policies. The extent of Pakeha indignation at Maori-dominated Land Councils was sufficient for the enactment of the *Maori Land Settlement Act 1905*, which allowed for more Maori land to be opened up for Pakeha settlement, and somewhat appeased Pakeha opposition by reconstituting the Maori Land Boards in place of the Maori Land Councils. In many ways the new provisions were more favourable to the Maori than any previous legislation but, overall, the theme was a familiar one: 'Maori interests continued to be subordinated to European desire for more Maori land.'¹⁰⁸

Furthermore, the legislation of 1905 demonstrates the ambiguous nature of the Liberal Government's Maori land policy. On the one hand, the Government aimed to reserve Maori land for their use and benefit, and encouraged Maori in their efforts of development. Whilst on the other hand, the Liberal land policy aimed at the subdivision of large estates and the opening of land to small farming.

to Williams, there was no mention of a Maori Parliament, instead there was a new emphasis on equal rights rather than on special legislation to serve their interests. Williams writes: 'Maori hopes for a separate parliament was gone, and they now sought to meet the threat to their land by getting legal titles that Parliament would not tamper with, and by putting their land under crop or pasture.' (Williams, *Politics of the New Zealand Maori*, p.120.)

¹⁰⁶ Butterworth, 'The Politics of Adaptation', MA Thesis, p.105.

¹⁰⁷ R.J. Martin, 'Aspects of Maori Affairs in the Liberal Period', MA Thesis, pp.118-119.

¹⁰⁸ Katene, 'Administration of Maori Land in the Aotea District', p.66.

The 1905 legislation was a response to Pakeha public pressure, and was not always in the best interests of Maori. The Act altered the composition of the administrative bodies established to supervise leasing arrangements. It replaced the partially elected Maori Land Councils with wholly nominated Maori Land Boards, now with a membership of three, and with the requirement that only one member had to be Maori.¹⁰⁹ The policy of a built-in Maori majority on the Land Councils was therefore abandoned in this legislation, and the pretence of the 1900 act that the Maori were being granted a measure of self-government was all but dropped. Composed predominantly of Pakeha, these new Boards acted as channels for the leasing of Maori land to Europeans. Maori, deprived of authority, were no longer to reap benefits from their resources - this was to become another Pakeha privilege.¹¹⁰

Disappointed in its hopes that Maori would voluntarily hand over the lands for leasing to the Councils under the *Maori Lands Administration Act 1900*, the amending 1905 Act introduced compulsory vesting of lands in the Boards. It introduced a new measure whereby any Maori land in the districts of the Taitokerau (North Auckland) and Tairāwhiti (East Coast) which 'in the opinion of the Native Minister [sic] is not required or not suitable for occupation by Maori owners' could be compulsorily vested in the Maori Land Board. The Board could then set aside papakainga, and the remainder could be leased out to the public for terms not exceeding fifty years.¹¹¹

While compulsory vesting applied only to Taitokerau and Tairāwhiti, Maori land owners in other districts could apply to the Board to lease land on their behalf. In these districts, the Act provided for the Government to resume its monopolist purchasing of tribal land. This meant that the pattern of the private purchase of individual interest was repeated. The Crown was required to ascertain that Maori owners had sufficient other land for their maintenance, and was obliged to pay no less than the assessed value for the land.

In a concession to the 'land-for-settlement' pressure group, many of the protective restrictions on alienation by way of lease were removed, allowing private individuals to again negotiate directly with Maori owners. Private land buying however, was not allowed. Small Pakeha farmers, while being denied ready access to the freehold of Maori land, were granted unprecedented freedom by the removal of all restrictions in acquiring the leasehold of these lands. In this way, the desires of small farmers were partially satisfied. Kawharu notes that clearly the Act did not encourage 'tribal control and conservation, but pakeha control and alienation.'¹¹² As a result of this new legislation, an increased volume of Maori land passed through the Boards into Pakeha

¹⁰⁹ According to Norman Smith (*Native Custom and Law Affecting Land*, Wellington, 1942, p.28.) the Maori Land Boards had the following general powers and functions: (a) To control and administer on behalf of Native [sic] beneficiaries, funds derived from the alienation of Maori lands; (b) To administer certain areas of Maori land vested in the Boards in trust for the beneficial owners, with powers of sale and lease; (c) To act as agent of the Maori owners in respect of Maori lands set apart for settlement, or alienated by resolution of assembled owners; (d) To purchase any farm lands, and to acquire land in trust for Maori; (e) To carry on any agricultural or pastoral business on any Maori land with the consent of the owners; and (f) To engage in, or undertake any industry, or business which is deemed to be in the interest of the Maori.

¹¹⁰ Cox, *Kotahitanga*, pp. 96-97.

¹¹¹ New Zealand Statutes 1905; and *Maori Land Legislation Manual: Guide to Using the Maori Land Legislation Database*, Wellington, 1994, pp. 237-238.

¹¹² I.H. Kawharu, *Maori Land Tenure: Studies of a Changing Institution*, Oxford and New York, 1977, p.24.

occupancy and use. However, the settlers were still far from satisfied; they wanted more freehold land.

Although the legislation had resorted to the expedient of compulsory vesting of 'waste lands', and had re-introduced the policy of Crown purchase, to some extent it continued the Government's resolution to protect Maori from becoming landless. Some attempt was made to 'meet Maori concerns. Importantly, the Act still favoured a system of leasing, despite settler and Opposition remonstrances against 'Maori landlordism'. 'That this policy survived can be largely attributed to Carroll's determination to stave off the pressure for permanent alienation of the land by way of freehold tenure.'¹¹³ While the legislation allowed for government purchasing to resume, it did introduce the duty of ensuring that the Maori vendor would not be rendered landless by the purchase, and that the price paid was not lower than its capital value.

For the first time the 1905 Act provided for financial assistance to be made available for Maori wishing to improve the land. There was a strong desire among many Maori to farm and bring their ancestral lands under cultivation. If some of the larger blocks were sub-divided into small farms many Maori would have gladly agreed to farm, but they had to have financial assistance.¹¹⁴ Some form of State funding was necessary to meet their special needs. By the *Maori Land Settlement Act 1905*, provision was made for some loans to be made available for Maori landowners through government lending institutions. Seddon promised them large-scale state aid in developing their land into workable blocks. They were to receive monetary assistance comparable to that already given to Pakeha settlers. However, as was the pattern, this potentially valuable concession was nullified by Seddon's death in June 1906. His successor, Ward, was less sympathetic, and was to renege on his promised funding for the utilisation of Maori land.¹¹⁵

In fact the Government eventually paid little heed to the Maori in the matter of financial assistance. The Crown created numerous obstacles to lending money to Maori, and refused to do so except to individual Maoris on the security of individualised titles. Although the Liberals were aware of the problems of Maori land tenure without money or skills to farm productively, they seemed reluctant to make what was considered to be a financial gamble in lending money to the communal owners of incorporated Maori lands.¹¹⁶ Effectively the Government under-resourced the promised developments of the 1900s, and in failing to make enough money available for Maori, the Government denied Maori assistance in developing and farming their own lands.

Although the Act was seen by Carroll as another attempt to stave off pressure for a return to extensive land purchase, the government still emphasised the importance of European land settlement over and above the successful farming by Maori of their own lands. Handicapped by lack of monetary assistance, this was a prime grievance of the Maori who for years had demanded better opportunities, and equal rights with the Pakeha settler.

¹¹³ O'Brien, 'The Stout-Ngata Native Land Commission', pp.20-22.

¹¹⁴ Katene, 'Administration of Maori Land in the Aotea District', p.97.

¹¹⁵ Ibid., p.97.

¹¹⁶ Gilmore, 'Maori Land Policy and Administration during the Liberal Period', pp.191-194.

Furthermore, Maori owners were thrown into confusion by conflicts in government policy, and were alarmed at the new drastic schemes which pointed in the direction of compulsory seizure and practical confiscation. Under the impetus of the 1905 legislation, the tempo of land purchase by the Crown quickened appreciably, and Maori resentment ran high as the policy of acquiring surplus Maori lands was vigorously pursued throughout 1906. Maori MHRs only gave their approval to the 1905 Act because of the fear that pressure would grow from Pakeha to the extent that there would be a return to the wholesale alienation of the 1890s.

In protest resulting directly from the Act of 1905, an attempt, or series of attempts, was made to revive the Kotahitanga Movement. Maori believed the Act - so nicknamed the "Ture Muru" or "Confiscation Act" - allowed for the compulsory taking of their lands and felt that the Treaty of Waitangi had been trampled on. This piece of legislation, which tied the hands of the Maori as to the sale of their land, was said to conflict with the solemn promise made in the Treaty that the Maori were to be afforded protection, and all the rights and privileges of British subjects.

It is difficult to determine whether the overall trend of legislation from 1905 to 1908 was favourable to the Maori. Although renewal of purchase and freer leasing was not against the Maori wishes, the change from the voluntary powers of the Maori land council meant a substantial loss of Maori control over their land. Brooking concludes that 'Liberal Maori land policy was conceived... in terms which were not explicitly racist and which were quite consistent with their Liberal aims of promoting closer settlement, revitalising rural communities and sharing property, wealth and power more evenly.'¹¹⁷ But this meant little to Maori because the purchase of so much land, for so little money, was catastrophic for the development of their own Maori farms and businesses.

Overall then, the Liberal Government had managed to stave off the ultimate settlement of the Maori land question. Legislation between 1900 and 1906 can be seen as introducing such important innovations as the Maori Land Councils and Boards, but the whole machinery of the Maori land policy at this time was geared towards playing for time. Liberal theory from 1900 onwards had favoured Maori retention of the remaining Maori lands and their profitable occupation for some limited term by Pakeha, in order to give the Maori time to acquire the money and skill necessary to utilise these lands.

However, by late 1905, with growing dissatisfaction amongst Maori calling desperately for the cessation of land alienations, strident attacks by the Opposition in Parliament, and insufficient land being made available to satisfy Pakeha public demand, the taihoa policy was placed under increasing pressure. The Liberals had been re-elected to office at the end of that year but found they were losing ground to the conservative opposition led by Massey. The freehold sentiment was the strongest amongst Pakeha farmers, and this issue was becoming increasingly pivotal in the power stakes. The Liberal Party, although it did not owe its chief support to the farmers, was at this time in danger of losing the support of the country Liberals to the Opposition.

¹¹⁷ Brooking, 'Busting Up' the Greatest Estate of All', New Zealand Journal of History, p.97.

Thus, the problem of how to deal with the areas of Maori land in the North Island so as to open much of it to Pakeha settlement, whilst giving the fullest regard to the interests of the Maori owners continued to perplex the Liberal Government throughout 1905 and early 1906, as it had perplexed many administrations before. Faced with an increasingly hostile rural community, it became evident to Ward that the matter had to be investigated and that it was necessary to make some adjustment to government policy. As Gilmore writes, 'it would have been political suicide for any government to have ignored the settlers' claims...'¹¹⁸

The Government was now being forced to act on the issue of Maori land and its availability to Pakeha. Growing discontent amongst small farmers precluded the continuance of the Liberal policy of conservation of Maori lands.

¹¹⁸ Gilmore, 'Maori Land Policy and Administration during the Liberal Period', p.48.

CHAPTER TWO - The Establishment of the Commission

'The people of the colony are looking on with interest, they are expecting something to be done...in the way of settling the huge blocks of Native [sic] land which are of no use to the Natives themselves and which are at present lying idle, and I sincerely trust they will not be disappointed...'
(Mr W.F. Massey, Address-in-Reply, NZPD 1907, p.40.)

Carroll's policy of taihoa had held fairly well until the end of 1905. Liberal theory from 1900 onwards had definitely favoured the Maori retention of the remaining Maori lands, or the profitable leasing to Pakeha of those lands not worked by Maori, in order to give them time to acquire the money and skill necessary to utilise these lands. However, at this point the Government found itself faced with increasingly hostile criticism from Pakeha settlers, country and farming Liberals,¹ and an Opposition Party under Massey which was beginning to acquire the status of an alternative government.

Therefore, after six years of delaying a response to Pakeha calls to open up more Maori land for freehold settler ownership, the Government bowed to its critics, and was compelled to take action and make some adjustment to their policy. This was necessary in order to make more effective the machinery operating to open up Maori land, and to protect the Liberal Government's ruling majority. In response to the farmers' demand for freehold land which up until now the Government had refused to grant, Seddon and Ward decided that it would be politically inexpedient to continue the restricted settlement of Maori lands ensuing from the 1900s legislation. Furthermore they believed that dealing could no longer be mainly confined to leasing - land purchase had to become an option, with increasing emphasis placed upon Maori land.²

However, although the Government was concerned to satisfy the demands of the Pakeha public, it was still reluctant, due to the influence of Carroll, to take permanent measures to deprive the Maori of their unused lands. Carroll, for his part, was unwilling to return to a state of free trade in Maori lands, which while advantageous to the Pakeha settlers he believed would be disastrous to the Maori.

Thus, in 1905 James Carroll added a new ingredient to the Maori Land Council experiment. 'Idle' Maori lands were to be made available for agricultural development by way of compulsory vesting in the new Maori Land Boards. This attempt was partially defeated by the Cabinet, who faced with a noisy opposition party and growing anger from the party's own back benches, were disappointed that

¹ The Liberal Party, although it did not owe its chief support to the farmers, was by 1907 in danger of losing the support of the Country Liberals to the Opposition. The Farmers' Union formed in 1899 to foster amongst other things, the opening up and settlement of Maori lands, was becoming identified at this time with the demand for freehold tenure. A rural sectionalism was emerging and Country Liberals were being driven so far to the Right that there was little to choose between a Country Liberal and an Oppositionist. (B.R. Gilmore, 'Maori Land Policy and Administration during the Liberal Period 1900-1912', MA Thesis, Auckland, 1969, p.62.)

² David Hamer, The New Zealand Liberals: the Years of Power, 1891-1912, Auckland, 1988, pp.293-296.

so far Carroll's methods had not resulted in enough 'unoccupied' Maori lands being opened up to Pakeha settlement. But the Native Minister did not give up, and as one historian put it, Carroll returned to the fray with 'a new strategy that would appeal to the greatest number of Maori and Pakeha alike.'³ His new proposal called for compulsory vesting of 'idle' lands, but now the exercise was to be based on a systematic inventory and appraisal of the status of Maori lands in the North Island.⁴

The new strategy which Carroll adopted after his partial defeat in 1905 was to set up a Royal Commission to 'inquire into the question of Native lands and Native Land Tenure.' The water was tested in a memorandum produced by the newly-reconstituted Native Department in mid-1906.⁵ This identified the need to

'provide a more simple and workable method of ascertaining without delay what lands are needed by Maoris, [sic] and for at once setting aside selected areas for their use and occupation, giving...to Maori owners...a...voice in selecting such lands to be retained by themselves, and in deciding in what way their surplus lands shall be dealt with...'⁶

In other words Maori assets were to be inventoried, and landowners' requirements assessed on the working principle that no one would be permitted to own land without using it.⁷

This proposal was soon adopted by the Government, who were desperate to hasten the opening up of Maori land for settlement in order to appease Pakeha protest, and at the same time to prevent arousing open Maori hostility to government measures. In August 1906 Joseph Ward announced in the course of a statement on Maori land titles that was it desirable not only to settle Maori titles as quickly as possible, but also to devise some means to bring the land under cultivation, to set aside enough land for

³ G.V. Butterworth, 'Maori Land Legislation: The Work of Carroll and Ngata' in New Zealand Law Journal, (August 1985), pp.244-245.

⁴ Donald M. Loveridge, Maori Land Councils and Maori Land Boards: An Historical Overview, 1900-1952, Prepared for the Waitangi Tribunal, Wellington, September 1996, p.63.

⁵ The Native Department had been established by Donald McLean in the late 1860s and early 1870s, in order to incorporate Maori within the system of British government, and to end the political and military independence of the Maori chiefs. To achieve this, McLean built up what was essentially a mini-government organised through the Native Department, and with the resident magistrates as his executive officers in tribal areas. By 1876 however, there was increasing hostility to the Department, partly for the political reason of the power it gave McLean, but also on the grounds of cost. Coming under attack over the next ten years, the Department was gradually broken down by successive Native Ministers, who dispersed its functions amongst other departments in order to reduce its spending. By the mid-1880s the department was a husk compared to what it had been. It failed to resolve the most burning issue in Maori land, the question of validating uncertain titles, and in 1892 and 1893, it was abolished. However, the later resumption of both large-scale land purchasing and extensive leasing of Maori land demanded a decent administrative framework, and the implementation of the promised policy of financial advances to Maori also required a more co-ordinated approach. The end result was that James Carroll, Native Minister, was allowed to reconstitute the Native Department in June 1906; an acknowledgement that Maori policy had become too specialised to remain as an appendage of the Justice Department. Directed by Judge Edgar, the Native Department became much more of a land administration and land purchasing department than an agency for economic and social development, and the programmes of the Native Land Court, Maori Lands Administration, and Maori Councils, were transferred to the new department. (G.V. Butterworth, Maori Affairs: A Department and the People Who Made It, Wellington, 1990, pp.63-64. and also Butterworth, End of an Era: The Departments of Maori Affairs 1840-1989, Wellington, 1989. pp.10-14.)

⁶ MA 16/1 'Native Matters', p.2.

⁷ Loveridge, Maori Land Councils and Maori Land Boards, p.64.

maintenance of Maori, and to throw open the balance for Pakeha settlement and farming.⁸

Again it was left to Carroll to tidy up and finalise his initial proposition, and with his aide Apirana Ngata he was left to develop a strategy which it was hoped would appeal to the greatest number of both peoples. According to Carroll, he submitted a proposal for a Royal Commission so that the millions of acres of unoccupied land in the colony would not remain in its 'unproductive' state. He wanted to see the lands of the Maori brought into profitable occupation as speedily as possible, and in discussing the proposal stated that

'My idea is, where there are several owners in a block, and where it is considered desirable to keep the block intact, to arrange for the appointment of a suitable, experienced European as manager. In some cases the land will be surveyed, and each owner's interest will be determined, and such owner will farm the land himself [sic]. In other cases the alternative system - that of skilled European farming and management - will be adopted until the younger generation of Maori grow up and are taught modern farming methods...'⁹

At all costs, Carroll and Ngata wanted to end all private purchases of Maori land by individual buyers and to ensure that individual Maori interests in land were protected. Furthermore, for many years the Government had failed to provide Maori with the necessary finance to successfully set up and farm their own lands. Thus Carroll and Ngata wished to overcome the financial difficulties and problems of title that Maori owners had encountered, so that those who wanted to farm their lands were able to do so.

The solution was a two-man commission consisting of Chief Justice Stout, who Carroll knew had sympathy for his point of view, and Apirana Ngata, the leader of the progressive Young Maori Party.¹⁰ They were to investigate what Maori lands were not profitably occupied and to recommend how such lands could best be utilised and settled in the interests of the Maori owners and Pakeha settlers. Carroll believed that the Native Land Commission would cost the taxpayer perhaps about 10 000 pounds, but considered that the work was worth the money.

Thus, the Royal Commission which was to set this process in motion was formally appointed in January 1907.

Speaking on behalf of the Government, the Attorney-General Dr John Findlay, noted that Ward had given the Maori land problem more attention during the months of 1906 than any other of the 'troublesome questions' he had had to consider and deal with. In commenting on why the Commission had been appointed so early in the year, Findlay stated that had Ward waited until the end of the forthcoming Parliamentary session for Maori land legislation to be passed and then set up 'his'

⁸ AJHR 1906 - II 'Announced Statement, 28 August 1906'. p.xiii-xiv.

⁹ Wanganui Chronicle, 3 April 1907, p.7. An interview with Carroll.

¹⁰ G.V. Butterworth, 'Maori Land Legislation: The Work of Carroll and Ngata' in New Zealand Law Journal, (August 1985), p.245.

Commission, the Government would have lost 'about one year in the really good work [Ward's] scheme [had] in view'.¹¹

Findlay also noted that although legislation was ordinarily passed first and then the machinery set to work to carry it into practical effect, this had been tried time and again in Maori land matters, 'with but lamentable results'. Ward decided to find the most efficient machinery New Zealand could provide, and consequently chose two men who, beyond others, possessed the qualifications for 'strenuously, fairly, and expeditiously handling the complex conditions of the Maori land problem'. Findlay concluded by saying that 'no one [could] fairly appreciate the Premier's sagacity in putting the Commission into operation at once who has not traced the tortuous career of native [sic] legislation in the past'.¹²

Thus, the start of a new year saw the Premier Sir Joseph Ward and his government determined to answer their critics by trying this new method of assisting Maori land development. The Government, compelled to take some form of action, or at least to be seen to be taking some action, reached a compromise between these differing attitudes in the appointment of a new Commission. At the State Opening of Parliament on 21 January 1907, the Governor officially appointed the Commission on Native Lands and Native Land Tenure, and set Carroll's resolution in motion. The two Commissioners appointed were Sir Robert Stout, Chief Justice of New Zealand since 1899 and former Premier; and the recently-elected Liberal MHR for Eastern Maori, Apirana Turupa Ngata.

Governor Plunket, announcing the Commission, stated that the first step to a permanent solution of the problem was a full and reliable knowledge of the facts and conditions involved. Accordingly, he declared that the Commission was set up to investigate the land requirements for maintenance of the Maori owners and Maori throughout the Colony, and also to ascertain what area of such Maori land could; 'with full justice' to the Maori owners, be made available for Pakeha settlement.¹³

There was around 7.5 million acres left in Maori ownership in the North Island by 1907, and of that area it was estimated about 3 million acres were 'unproductive'. The bulk of the 'unsettled' land lay in the East Cape, Bay of Plenty, Taupo, Upper Wanganui, King Country, and Northland Districts.¹⁴ The Government felt that of this enormous area of land, most of it was fit for settlement, but had lain neglected and unproductive, resulting in a loss to the Maori owners, a serious impediment to settlement and an economic waste to the colony. The Royal Commission was to inquire into such lands, and decide how they could be 'profitably' utilised in the interests of Maori owners and the 'Pakeha public good'. It was to investigate what lands the Maori owned, how much they needed to farm for themselves, and how much could be declared 'surplus' land for general settlement purposes, either by way of lease or sale.

¹¹ New Zealand Herald, 22 January 1907.

¹² Ibid.

¹³ 'Governor's Speech', NZPD 1907, Vol 139, p.3.

¹⁴ Anne-Marie O'Brien, 'The Stout-Ngata Native Land Commission, 1907-1909: Aspects of Maori Land Policy in the Liberal Era', BA(Hons) Essay, Dunedin, 1991, p.32. From Wairarapa to Wairoa, and from Wellington to Waitara there was very little Maori land unsettled. Most Maori land in those districts were either held under lease or were under Maori occupation.

In announcing the creation of the Commission to Parliament, Premier Ward spoke of the Chief Justice, Sir Robert Stout, as well known throughout the colony. According to Ward, Stout's knowledge of Maori laws and customs, and Maori history were so valuable 'that the Government had no hesitation in asking him to accept the position of chairman of the commission.' Apirana Ngata was also praised as a man 'of the highest educational achievements'. He held a Bachelor of Laws degree, was a barrister of the Supreme Court of New Zealand, and was eulogised by Ward as being 'one of the most brilliant Maoris [sic] to have passed through Te Aute College.'¹⁵ In addition, Ngata was passionately attached to his 'race'. Thus from the standpoint of both Maori and Pakeha, Ward felt there would be a general consensus of opinion that both 'races' would be thoroughly represented on the Commission.

In the course of his parliamentary speech, Ward stated that the Commission was set up with the earnest desire to see the Maori-owned lands of the North Island opened up and settled, whilst at the same time protecting Maori from landlessness.¹⁶ Attorney-General Findlay also held the same view regarding the purpose of the Commission. He believed it would be the most efficient method yet of solving the Maori land problem, securing to Maori all the land that they could reasonably farm or use, whilst securing to Pakeha more land than had been provided under the Lands for Settlements programme.¹⁷ The result was to be a boom in the North Island, but with no injustice done to the Maori, who would receive the highest price for their land. Dr Findlay predicted that the Commission would ensure 'a better and more comfortable day to dawn upon' the Maori.¹⁸

Speaking to the country's press, Premier Ward remarked that the Native Lands Commission was to be unlike any former Commission in that it was to be more than a mere 'data collector'. Rather, it was to investigate each district in the North Island containing 'unproductive' Maori land, and after discussing with the owners their land requirements, Stout and Ngata were to report back to Parliament with 'material so complete and digested that Parliament may at once convert [the] report into law'.¹⁹ The Commission was not to conduct a mere academic inquiry, but was to be practical, detailed and exhaustive in its investigations.

According to Ward, it was a small commission, but it had been kept so because the Government wanted results and wanted lands for Pakeha settlement. He also stressed that the Commission was not set up for the purposes of delay, but rather to expedite the solution of the Maori land 'problem'. People would see results immediately and would not have to wait for two years.²⁰ The Premier spoke in glowing terms of the establishment of the Commission, and touted it as being the solution from which ground-breaking legislation would come. He did so with a sense of desperation, in that if the Commissioners' recommendations came to nothing, his Government might well face a huge loss at the next general election.

¹⁵ The Evening Post, 19 January 1907.

¹⁶ NZPD 1907, Vol 139, p.50.

¹⁷ The PRESS, 19 January 1907.

¹⁸ Ibid.

¹⁹ Ibid. Ward delivered his remarks to the media from Christchurch, where he had been attending a banquet held in his honour, before embarking on a trip to London to attend the Premiers' Conference.

²⁰ New Zealand Times, 19 January 1907., and New Zealand Herald, 28 January 1907.

The Government also had to convince Maori of the benefits of the Commission. Thus, in a 'show of justice' it explained its reasons for setting up the Commission, issuing a statement printed in the New Zealand Herald, which was designed to convince Maori that the Commission was to be supportive of, and beneficial to their causes.²¹ It believed there should be a complete and impartial inquiry into the state of Maori land, and there was also a need to inquire as to Maori views and opinions regarding the utilisation of their lands.

In order to ensure that the rights of Maori land owners were given protection, a legal representative was to accompany the Commission. Stout considered it desirable that an active counsel 'of good standing'²² should be engaged to represent Maori owners and their land interests before the Commission, so that Maori could be legally represented without the crippling costs of hiring a lawyer which would have prevented many Maori from appearing before the Commission. The Government thus appointed lawyer Mr C.P. Skerrett to serve this purpose. Relieved of the cost of being personally represented, Maori were thereby offered an inducement to appear before the Commission.

Skerrett was to accompany the Commission throughout its whole work to ensure that the rights of Maori, individually and collectively, were put before the Commission 'in a way that would ensure them the fullest consideration and protection.'²³ This was a significant appointment in that a well-known, prestigious counsel was employed to advise the Maori. In securing the appointment of Skerrett as representative of the Maori owners, the editor of the Press, believed that the Government had proved their willingness to spare no expense in having Maori interests safe-guarded and their views placed clearly before the Commission.²⁴

Mr A.L. Fraser, MHR for Napier, - described in the Press as an expert in Maori customs and institutions, and familiar with Maori requirements²⁵ - was also appointed to assist Skerrett. William Pitt, Clerk and Interpreter of the Native Land Court, was later chosen to be the Commission Secretary, and Mr L.M. Grace²⁶ of Wellington was appointed Interpreter to the Commission, with a Mr Briggs to act as its Reporter.

²¹ New Zealand Herald, 28 January 1907.

²² The PRESS, 1 February 1907.

²³ *Ibid.*, The fifth Chief Justice of New Zealand, Charles Perrin Skerrett was born in India in 1863. Charles completed his education in Wellington, after his parents arrived in New Zealand in 1875. After passing the requisite professional exams Skerrett was admitted as a barrister and solicitor of the Supreme Court. He acquired a reputation as a skilful advocate, enhanced by a deep knowledge of human nature, an engaging sense of humour, and a natural eloquence. When the rank of King's Counsel was created in New Zealand in 1907, Skerrett was among the first group to be appointed. He played a prominent part in the affairs of the Wellington District Law Society, which led to his appointment as lawyer for the Maori during the Stout-Ngata Commission. He would later be appointed Chief Justice of New Zealand in 1926. Skerrett combined a close attention to detail with a genial manner that made him almost universally popular. Skerrett achieved his success by sheer ability and industry, and was held in the highest esteem both within the legal profession and the wider community. (G.P. Barton, 'Skerrett, Charles Perrin', in NZDB, Vol III, pp.476-477.)

²⁴ The PRESS, 1 February 1907.

²⁵ *Ibid.*

²⁶ Lawrence was a member of the well-known Grace family of Taupo - his father Thomas Samuel Grace having been a missionary who lived among the Maori of the Taupo region. Thomas Grace was reputed to have had some influence over Te Heuheu Tukino of Tuwharetoa, and he believed that the Maori in the Taupo country were in a state of armed neutrality in which peace was only preserved by the power of (his) gospel. Thomas

The Native Land Commission itself formally opened in Christchurch on Thursday 31 January 1907, where the Chief Justice and President of the new Commission, Sir Robert Stout, gave a general outline of the course he proposed to take.²⁷ Ngata was unable to attend this first hearing being delayed in the North Island, however Stout considered it better to meet without him, in order to let it be seen what the objects of the Commission were, and to outline the timetable and intentions of their coming work. It was intended by Government that there should be no delay about the work of this Commission, and the Commissioners appointed were given clear directions as to the scope of their inquiry. Stout also was very anxious to set to work, and to tackle the issues which the Commission had been set up to solve.²⁸

The Stout-Ngata Commission (as it came to be called) was asked to devise ways of best utilising Maori land and to do this in a manner that would be advantageous to both Maori owners and prospective Pakeha settlers or leaseholders. Stout and Ngata were to examine the condition of all Maori lands in the North Island, in order to identify those which were not being used to their full potential. They were then to categorise these lands according to modes of future disposition which would enable optimum use to be made of them; offering effective methods whereby such lands could 'be profitably occupied, cultivated, and improved.'²⁹

The Commissioners' first duty was to identify what areas of Maori land in the North Island, lay 'unoccupied' or not 'profitably utilised'. They were consequently required to collect the names of the owners of the land, the nature of such owners' titles, and the interests affecting these people. Stout and Ngata were also enjoined to consider how such lands could best be utilised and settled 'in the interests of the Maori owners and [Pakeha] public good.'³⁰

After ascertaining the areas of land not in occupation or not put into profitable use, the Commission was to determine what area of Maori land would be required for the individual occupation of the Maori owners for purposes of cultivation and farming. The Terms of Reference also required them to consider what regions of land should be set apart for future occupation by the descendants and successors of Maori owners,

Grace's ministry amongst the Maori was eminently successful in the face of many obstacles, and was marked by a sympathy with Maori aspirations which was not always found in missionaries. After an unsuccessful attempt at farming, Thomas' son Lawrence Grace was articled to a solicitor and became an interpreter in the Native Land Court. Lawrence married Kahui, daughter of Te Heuheu Tukino, and in 1894 was appointed 'interpreter in Maori' to the House of Representatives. (NZDB, Vol III, 1901-1920, pp.183-184., and G.H. Scholefield, ed, A Dictionary of New Zealand Biography, Vol I, A-L, pp.313-314.)

²⁷ New Zealand Herald, 29 January 1907. Also reported in the Napier Daily Telegraph, Monday 28 January 1907. It is difficult to ascertain why the Commission in fact opened in Christchurch of all places, when it had been instructed to deal only with lands in the North Island. However, from the papers one can only assume perhaps that it opened in Christchurch because that is where Stout was at that time and as mentioned in the text above, he was very anxious to get things under way with regards to the Commission's work. Stout was in Christchurch to attend the Annual Session of the Senate for the University of New Zealand, where in his position as Chancellor of Canterbury College, he was presiding over meetings. (The PRESS, 1 February 1907.)

²⁸ The PRESS, 1 February 1907.

²⁹ Taken from Commission's Terms of Reference as originally published in AJHR 1907-II, G.-1., p.i. Introductory paragraph. The full Terms of Reference as can be seen in Appendix One.

³⁰ *Ibid.*, p.i. Terms of Reference. The full version of the Terms of Reference as printed in the AJHRs, was announced during a speech by the Premier at a reception in Dunedin, and was also published in various newspapers, including Wanganui Chronicle, 16 April 1907., and New Zealand Herald, 19 and 28 January 1907.

and what areas would be needed for the use of 'landless' Maori.³¹ The Commissioners were directed to establish what areas of Maori land would need to be preserved as communal blocks for the purposes of the Maori as a body, in order to keep tribal customs alive. They were also to consider the settlement of Maori lands by Maori other than the owners, and were to inquire into the terms and conditions of such agreements whether they be lease or sale.³²

Having satisfied these requirements, the Commission was then to ascertain what lands could be set aside and made available for Pakeha settlement. It was to specify the terms, conditions and modes of disposition; and establish safeguards which would prevent the subsequent accumulation of land - set aside for Maori occupation - in Pakeha hands. The Commission was also asked to comment on how the existing institutions established amongst Maori and the existing systems of dealing with Maori lands could best be utilised or adapted for the purposes of profitable occupation by Maori, and to what extent or in what manner they should be modified.³³ To do this, the Commissioners were to look at the various bodies involved with the administration of Maori land, and identify changes which might streamline the process.³⁴

On a more general basis, the Terms of Reference invited Stout and Ngata to make any suggestions or recommendations as to solving the issue of 'under-utilised' Maori land, and the need for lands for Pakeha settlement. It was also suggested that the Commissioners be asked for their input with respect to the necessity of legislation to resolve the matter. The Commissioners were authorised to carry out any inquiries to answer their questions, at such times and places as they deemed expedient and with the power to adjourn from 'time to time.'³⁵

According to the Terms of Reference, the Commission was to tour the North Island in order to obtain material,³⁶ and was to ascertain answers from the Maori and from material furnished by the Native Department and the Lands and Survey Department. The Commissioners were also empowered to summons any person or persons from

³¹ **AJHR 1907-II G.-1.** p.i. Terms of Reference.

³² *Ibid.*, p.i. Terms of Reference.

³³ *Ibid.*, p.ii. Terms of Reference.

³⁴ Loveridge, Maori Land Councils and Maori Land Boards, p.66.

³⁵ **AJHR 1907, G.-1** p.ii.

³⁶ Although the Terms of Reference do not directly state that the Commission was to deal only with lands in the North Island, it seems that at the time it was implicit. According to Stout, land issues in the South Island were a quite separate issue from those the Commission were appointed to investigate. Attorney-General Findlay believed that 'the future of the North Island promised better things than the South' (Te Aroha News, 18 July 1907), one reason being that there was still three million acres of 'unoccupied Maori lands' which could be opened up to Pakeha settlement, whilst in the South Island the MacKay Commission had already shown that the South Island Maori had very little of their own land left and were in fact nearly destitute. Furthermore, Hamer mentions (Hamer, The New Zealand Liberals: the Years of Power, 1891-1912, p.293.) that the North Island Pakeha were extremely concerned about the Maori land question, whilst the Southerners were indifferent to it. This is backed up by a comment in the New Zealand Herald, 22 January 1907, which stated that the Maori land 'problem' was of immediate importance to Pakeha in the North Island, overshadowing any land issues South Islanders may have had. Thus it appears that the history of Maori and Pakeha interaction in the South Island, and issues of opening up Maori land for Pakeha settlement in the North Island were two separate issues, with the Stout-Ngata Commission required to investigate the latter. The Government could no longer ignore what was obviously of such importance to northern Pakeha, and in order to secure votes the Commission was appointed with North Island lands in mind.

whom they might require necessary information, and were allowed to call for and examine all books, documents, papers, plans, maps, and records likely to provide them with the fullest information relevant to their inquiry.³⁷ The Native Minister himself announced his willingness to appear at any time before the Commission in order to furnish any further information or service to them.³⁸

The results and recommendations from the Commission's work were to be submitted to the House, in the form of regular interim reports. Each district and county of Maori land in the North Island was to be dealt with separately because of different conditions operating in each case. However, the Terms of Reference did not elaborate as to the specific districts Stout and Ngata were to investigate, and it was implicitly left to them to establish which counties they would need to visit. The Commissioners were directed to frame their reports so as to facilitate a prompt government response, and were especially requested to comment upon the lands available for Pakeha settlement so that Parliament, if it deemed fit, could give immediate legislative effect to such parts of the Commissioners' reports.³⁹ Any ensuing enactments would thus be based upon this series of reports, as opposed to one general report. The time fixed for the presentation of the first report was to be not later than 15 July 1907, and the final report was to be not later than 1 January 1909.⁴⁰

According to Carroll, the Commission was to have many questions to report on to Parliament. He believed that in the past a good deal of criticism with respect to the Maori land question had been based on volunteered information, which had not always been correct. Carroll felt that under the new system, when Parliament had the results of the Commission's investigations, it would be in a better position to gauge accurately what legislation was required, how Maori lands could be administered, and what provision could be made for the Maori owners themselves.⁴¹

The Government emphasised the need for 'speedy' legislation to implement the Commission's recommendations as it considered that unless legislation was passed in the direction of settling Maori lands, they would never reach the end of the 'troublesome' question. Therefore, Ward pronounced that Stout and Ngata would continue their work until all the Maori lands in the North Island were investigated, in the hope of facilitating complete and prompt action on the settlement of Maori land. After the publishing of the Commission's findings, the Government proposed to introduce new bills immediately in the next parliamentary session. Ward maintained that legislation resulting from the recommendations of the Commission would secure to the Maori owners such land as they required, and make available for Pakeha settlement the surplus above these requirements.⁴²

The Stout-Ngata Commission can thus be seen as a device to bring Maori land within the purview of Parliament and thereby to hasten the alienation of land without at the same time arousing Maori hostility. It appears that the fundamental purpose of the

³⁷ AJHR 1907, G.-1 p.ii.

³⁸ The PRESS, 1 February 1907.

³⁹ AJHR 1907, G.-1 p.ii.

⁴⁰ See copy of the full Terms of Reference for the Stout-Ngata Commission in APPENDIX I.

⁴¹ Wanganui Chronicle, 3 April 1907. Article also contained in Turnbull's qMS Papers 1905-1912, STOUT, Sir.R. Paper Clippings, 3 Volumes.

⁴² 'Governor's Speech', NZPD 1907, Vol 139, p.3.

exercise was to identify with precision which Maori lands were 'available' for settlement by Pakeha, so that appropriate legislative action could be taken.

It is my belief that the Government anticipated that the labours of the Commission would go far in effecting a 'solution' to the Maori land question, which had become a nightmare to successive Parliaments and governments. The terms of reference imply that the Commission was an attempt by the Government to settle the Maori land question by overseeing the individualisation of the titles of all Maori lands were individualised so that each Maori owner could be placed on their own holding. At the time, the Government considered that the Royal Commission was the best course to adopt with a view of reaching a solution to the problem which had 'troubled every Administration...in office since the country...been a self-governing colony.'⁴³

'What are we to do with the Maori?', was an important part of the government's agenda, and was the crux of the question which the Native Land Commission was expected to answer. The order of reference under which the Commission was entitled to seek information allowed access to every aspect of the complicated issue, and the Commissioners were pretty much given a free reign to investigate any block of Maori land and the circumstances of its ownership, occupation, and 'profitable utilisation'. The Commission's purpose was thus not only to provide a new means of opening up Maori land, but to designate which land should be dealt with.

The Stout-Ngata Commission was to be the most exhaustive inquiry yet conducted into the whole question of Maori land, and there were high hopes that Maori land matters might be 'solved' by it. In order to satisfy Pakeha, the Commissioners were to be sent amongst the Maori and to bring before them the problems, questions and matters that were agitating Pakeha. The Government believed that this was the only option left which would get through to Maori the demands of the Pakeha in relation to settlement of Maori lands. For Pakeha and many members of parliament, they hoped that the Commission would assist materially in throwing open unoccupied Maori lands for Pakeha settlement.

Furthermore, the Liberal Government was also following a political agenda of its own when it established the Commission, hoping that a solution to the Maori land 'problem' would protect its slim parliamentary majority. By resorting to the appointment of the Commission, Carroll was for a period able to stave off some of the political and Pakeha pressure for a return to extensive land purchase.

The appointment of the Commission was, however, more the result of a compromise between two competing views within the Liberal Government. Seddon, Ward and the European members believed that the government should place the purchase of Maori land before everything else, whilst Carroll, in keeping with his *taihoa* policy, was determined that there should not be a return to free trade or wholesale government purchase of Maori land. In studying the details of the announcement of the Commission, it can initially be seen as somewhat sympathetic to the objectives of *taihoa* and can be interpreted as an extension of Carroll's 'delaying tactics'.

⁴³ NZPD 1907, Vol 139, p.50.

Emphasis was laid from the outset on the benefit to the Maori of the profitable occupation of their lands. According to C.P. Skerrett, the Commission's legal adviser to the Maori, the order of reference of the Commission was that first regard was to be had for the right and requirements of the Maori owners and only after that, were the lands not required to be made fit for settlement.⁴⁴ Under these terms of reference, it was thus established that the requirements of all Maori would be satisfied before any portion of a block was made available for settlement by a Pakeha. Premier Joseph Ward himself stated that 'if the Maoris [sic] would apportion their lands conscientiously and honestly, their proposals would be confirmed by the Royal Commission and made law for all time.'⁴⁵

For the benefit of the Maori, James Carroll hoped that through the Commission he would be able to reach agreement with tribal leaders throughout the North Island about the use of their land. He calculated that Stout and Ngata could help the Maori understand some of the 'problems and responsibilities' of land ownership,⁴⁶ discussing with them the workings of the Maori land laws and advising the Maori owners as to how the land could be profitably utilised.

He upbraided the Maori for inconsistency, for in the one breath they complained bitterly that their lands were slipping away from them, and in the next they besieged the Government with applications for the removal of restrictions in order that they might sell it.⁴⁷ Carroll urged them to give up squabbling amongst themselves, not only to promote their own material prosperity and progress, but to eliminate all cause of complaint.

For Carroll, the Commission also presented a chance for Maori to help themselves, and to unite in a common cause with a determination to be educated [this same train of thought was also reflected by Ngata] in dairying, farming, sanitation and other matters. He advised them to make the most of the presence of the Native Land Commission when it came amongst them.

To a people used to oral communication this method of appointing a Commission to discuss matters was culturally acceptable and, therefore, likely to meet with a ready response. However, early Maori reaction to the establishment of the Commission was tentative and somewhat guarded. Maori held out little hope at first for the success of the Commission as time and time before they had witnessed many unsuccessful government attempts at solving the Maori land 'problem' and so far all solutions had failed to achieve a balance between the wants of Pakeha and Maori.

But as the Terms of Reference became clear, and as Maori realised that 'one of their own' - Ngata - would be sitting on the Commission, they came to view the role of the Commission more positively. Maori began to look to the Commission to clarify why the Pakeha were so vigorously pursuing Maori lands to settle upon. Maori also sought the Commission's advice to help them successfully maintain the ownership of their lands, and sought its assistance in offering up blocks they desired to sell or lease. In order to silence government calls for the 'profitable utilisation' of lands, Maori wished

⁴⁴ *New Zealand Herald*, 1 February 1907.

⁴⁵ *King Country Chronicle*, 27 March 1908.

⁴⁶ Butterworth, *New Zealand Law Journal*, (August 1985), p.246.

⁴⁷ *King Country Chronicle*, 27 March 1908.

to occupy their lands and be assisted in farming it. According to the New Zealand Herald, they only needed a little encouragement from government to make them take up extensive areas of land themselves,⁴⁸ and looked to the Commission for this support. On the whole, Maori were prepared to give the Commission a chance, and some were eager to participate in it by allowing Stout and Ngata to analyse the future use of their land.

Ngata himself regarded the Commission as an important step. As he told Parliament: 'At no time before have the Parliament and Government of this country...ever descended to see at first hand the actual position of the Maori people and their lands.'⁴⁹ According to Ngata, it was the fact that the Pakeha were always placed first by the government which was one of the chief grievances of the Maori people. The appointment of the Stout-Ngata Commission went some way towards redressing this grievance. Both Ngata and many Maori hoped that the Commission would fulfil a mediating role between the Pakeha Government and the Maori people.

In stark contrast to these attitudes, objections to the announcement of the Commission and Commissioners were voiced by both the media and politicians. Within Parliament, negative reaction to the appointment of the Commission had more than one basis. Primarily, it was the Opposition Leader Massey who voiced the strongest objections to the appointment of the Commission. Massey believed Maori should be treated as equals with the Pakeha, as he put it, and thus saw the problem of Maori land as one which could be solved not by a Commission, but by allowing individual Maori owners to compete for the land alongside individual Pakeha settlers.

Furthermore, the Commission was condemned at its inception as a device for gaining time and for prolonging the procrastination which had been the 'curse' of Maori land policy. As a vocal supporter of freehold land ownership based on individual title, Massey led a faction which opposed the Commission on the grounds that it was a delaying tactic by those who supported the leasing of Maori land.

During a debate in Parliament, Massey contested what power or authority had been given to the Commission, and voiced his doubt that the Commission would hasten the settlement of the Maori land difficulty. He maintained that it was to do a job which should have been completed earlier, stating that '...it appears to me that the Commission has been appointed simply for the purpose of collecting information, and

⁴⁸ New Zealand Herald, 22 February 1907.

⁴⁹ NZPD 1908, Vol 145, p.1127. In stating this, perhaps Ngata forgot the Commissions which had investigated the South Island. For example, the appointment of Alexander MacKay, Judge of the Native Land Court, to a Royal Commission in 1886. MacKay's terms of reference were to investigate landlessness among Ngai Tahu, and to see how much land was required to meet their needs. MacKay spent twelve months on the investigation, and returned a report strongly sympathetic to Ngai Tahu. This stated plainly that Ngai Tahu were in need of land, and should be granted 200,000 acres to compensate for previous losses of their land. In 1891, MacKay again began Commission investigations to find out how much land each individual Ngai Tahu member had, and his second report gave a harrowing account of the 'grinding poverty and despair' which gripped Ngai Tahu throughout the South Island. (Harry Evison, Te Wai Pounamu the Greenstone Island: A History of the Southern Maori during the European Colonization of New Zealand, Christchurch, 1993, pp.459-466)

An other Commission to be held in the South Island was that appointed by Native Minister John Sheehan in 1879 to investigate the Ngai Tahu Claim. Known as the Smith-Nairn Commission, the two men appointed to the job were to investigate the purchases - Otago, Kemp's, Murihiku, and Akaroa - of Ngai Tahu land, and in doing so, examined many Maori witnesses in an attempt to establish if Maori had received inadequate compensation for the purchase of their lands. (Ibid., pp.442-456.)

information which I say, if it is not in the records or in the possession of the Department [Native Department] ought to have been in the possession of the Department long ago.⁵⁰ Massey went on to argue his belief that the Commission was set up 'not to expedite matters, but to delay matters.' He maintained that it was simply a part of the *taihoa* policy, which the Government had established over the previous ten years.⁵¹

In reply to these objections from Massey and the Opposition Party, Ward condemned the assumption that the Commission had been established with the idea of delay, and stated that nothing of the kind had ever been intended. His colleague Carroll had been dealing with the matter of Maori land policy for some time, one which had proven to be both difficult and complicated, and he hoped that the Royal Commission would be the best course adopted with a view of reaching a solution to the problem which had troubled every Administration since the colony's establishment.

In denouncing the appointment of the Commissioners themselves, Massey complained that the Commission involved the temporary withdrawal of the Chief Justice from the regular judicial work of the country.⁵² He also protested against members of the House being called away on the work of the Royal Commission during the sitting of Parliament, as Mr Alfred Fraser, MHR, in his capacity as Commission lawyer, would also be absent from Parliament along with Ngata.⁵³ On this ground, Alfred Fraser, who had been appointed to assist Skerrett in representing the Maori throughout the Commission's hearings, joined the Opposition leader in voicing his concerns with regard to the appointment of the Commissioners. Although Fraser acknowledged his great respect for both Stout and Ngata, he believed that it was a mistake to appoint a Commission, with Sir Robert Stout who had a 'strong bias and pre-conceived prejudices', and Apirana Ngata whose one ambition was 'to uplift his fellow Maoris [sic]'.⁵⁴

Other politicians also spent time debating the desirability of the Chief Justice being on the Commission, and the advisability or otherwise of the MP for the Eastern Maori District being a member of the Commission. One member said that Ngata would naturally be biased in favour of his own people, whilst another parliamentarian implied that some of Stout's ideals were not in tune with the general sentiment of the country.⁵⁵

The official view which the Opposition Party took of the proposed Native Land Commission was set out in an interview printed in the national media, in which Massey hinted at the insignificance of the Commission. According to the statement, the Opposition in general questioned very much whether the Commission could do much to solve the 'Maori land difficulty', and repeated previous protests that it seemed 'utter folly that the country should any longer allow millions of acres of

⁵⁰ *NZPD* 1907, Vol 139, p.40.

⁵¹ *Ibid.*, p.40.

⁵² *The Evening Post*, 29 July 1907.

⁵³ *Napier Daily Telegraph*, 14 August 1907.

⁵⁴ *NZPD* 1907, Vol 142, p.1062.

⁵⁵ *Ibid.*, p.1080.

valuable land to lie unsettled; when men [sic] are wanting to get on to that land to turn it to useful account.⁵⁶

The second element of parliamentary opposition to the announcement of the Commission, came from those who were generally more supportive of the Government's attempts to resolve the Maori land question, but believed that financing a lengthy Commission was the wrong approach. William Herries, Opposition Spokesman for Maori Affairs, was the chief protagonist of this faction. Although respected by both Carroll and Ngata for his knowledge of, and experience in Maori affairs, Herries was well known as a 'virulent' critic of all Carroll's policies - the appointment of the Stout-Ngata Commission being no exception.⁵⁷ He devoted himself to the acquisition of Maori land, and advocated the resumption of purchase of Maori lands. Herries' attitude towards Maori land was 'use it or lose it', and without wishing to attack the Commissioners personally because he entertained the highest respect for the ability of Stout and Ngata, he maintained that a Royal Commission would waste time on a topic which he believed needed solving with immediate and sweeping Maori land legislation.⁵⁸

As an ardent supporter of individual title, Herries complained that Sir Robert Stout was of the opinion that Maori lands should only be leased, whilst Ngata held the view that the Maori should not be compelled or allowed to hand over their lands to the Government. This, Herries remarked, was symptomatic of the apathy and inaction of the Native Department, and it only led to the conclusion that the Government had no desire at all to solve the Maori land problem and place Pakeha settlers on freehold land.⁵⁹

Media reaction to the establishment of the Commission varied, with mixed reviews in both southern and northern newspapers. The Press from Christchurch joined other southern papers in agreeing that the Commission would command the confidence of the Maori people and the utmost respect of the Pakeha.⁶⁰ It saw the benefit of the Commission not only to the North Island, but to the colony as a whole.

'Unquestionably it would be to the advantage of the colony to have the Maori lands opened for settlement. That is in fact the most pressing reform, besides which all other questions are of secondary importance...if a fair proportion of Maori lands were thrown open for settlement, the urgency of the land question as a whole would wonderfully diminish.'⁶¹

In the North, however, the general feeling from the press was that the Commission would only mean further delay. The New Zealand Herald was much less optimistic about the Stout-Ngata Commission, believing that the Government 'supported and sustained the Native Department in its stubborn determination to yield to Pakeha not

⁵⁶ New Zealand Herald, 22 January 1907.

⁵⁷ G.V. Butterworth and H.R. Young, Maori Affairs: a Department and the People who Made It, Wellington, 1990, p.68.

⁵⁸ NZPD 1906, Vol 137, p.293.

⁵⁹ Waikato Argus, 5 November 1908.

⁶⁰ The PRESS, 9 February 1907.

⁶¹ *Ibid.*, 19 January 1907.

another acre of Native [sic] land.'⁶² According to the Herald, it was the determination of the Native Minister, with the support of the Government, the leaseholders, and the sectional jealousy of the South, which combined to bring about the Commission as an alternative to 'vigorous and intelligent departmental action.' Thus the Commission was portrayed as merely another part of the *taihoa* policy, and would delay settlement for at least another two years.

From Wellington, the New Zealand Times took a much more moderate approach towards the Commission, with a far greater degree of tolerance than its northern counterpart. The Times regarded the matter of Maori land as 'the most important political issue...that has been before this colony for many years.'⁶³ It saw in the Native Land Commission great potential for reform, but warned that formulating a scheme to reconcile the conflicting aims of Maori and Pakeha would be very difficult to achieve. It considered that the rights of all claimants would have to be properly safeguarded, and that it should be the object of Government to secure Maori rights and raise the general well-being of the Maori race.⁶⁴

Furthermore, the New Zealand Times believed that Sir Robert Stout had the complete confidence of the country. The editor also argued that there was a need for a Maori representative on the Commission who had sympathy for Maori aspirations and had influence and authority among Maori, but who also had a comprehension of English law and training in 'European culture and habits of thought.' All these qualities were to be found in Ngata, according to the Times, who had 'single-minded and impartial regard for the interests of both races.'⁶⁵ The general media response to the appointment of the Commissioners was one of approval, generally signalling that the appointment of Stout and Ngata was about the best the Government could make. The integrity of the two men was never called into question.

But how did Sir Robert Stout and Apirana Turupa Ngata approach their new positions? What do we know about these two men who were to play the crucial roles in the Commission?

Loveridge describes the appointment of Sir Robert Stout as a shrewd choice. Stout had, during his political career in the 1880s and early 1890s, supported John Ballance's reforms, and could be relied upon to reach conclusions which the Liberal Government could live with.⁶⁶ His position as Chief Justice, assured both Maori and Pakeha that a man would chair the Commission who not only had a thorough knowledge of the law, but who would deal with the issues at hand in all fairness.

Wellington's Evening Post congratulated Premier Ward upon having secured an 'almost ideal chairman for such a commission.'⁶⁷ The editor believed that promptness, common-sense, knowledge of business, an insatiable appetite for work, and 'such a construction of his duties as a judge as does not permit him to forget that he is also a citizen' were among the notable judicial characteristics of Sir Robert Stout, making his

⁶² New Zealand Herald, 21 January 1907.

⁶³ New Zealand Times, 17 January 1907.

⁶⁴ *Ibid.*, 19 January 1907.

⁶⁵ *Ibid.*

⁶⁶ Loveridge, Maori Land Councils and Maori Land Boards, p.64.

⁶⁷ The Evening Post, 21 January 1907.

appointment as Commissioner an understandable and commendable decision. Furthermore, Stout was also eulogised for his erudition. 'What better combination [of attributes] could be desired in the chairman of the Native Lands Commission...' asked the article, with some satisfaction.⁶⁸

Robert Stout was born in Scotland and emigrated to Otago, New Zealand in 1863. In 1867 Stout was articled to the legal office of William Downie Stewart, and began practising law in 1871. However, he was quickly drawn into politics, and spent some years on the Otago Provincial Council, where his industry, intelligence and debating skills made a parliamentary career almost inevitable. By December 1875 Stout had been elected on an 'anti-centralist ticket' to the House of Representatives as the member for Dunedin City.⁶⁹ Three years later, Stout was appointed attorney-general in Sir George Grey's government, and was particularly influential in the preparation of electoral, trade union and taxation legislation.

Stout read widely in social and political theory and had a sound knowledge of most of the major political theorists of the day. He was passionately interested in others' political ideas, although he was not known for his own original thought and contribution to debate. He constantly invoked theory to justify a political position and was ever ready to condemn the politician who appeared to be guided merely by expediency. There was a strong, and moralising tone to Stout's liberalism, and he believed that most social and economic problems could be solved if individuals could be encouraged, enabled and even compelled to be self-reliant and independent.⁷⁰ He believed this to be true of both Pakeha and Maori whom he believed could achieve equally if given the chance. This view will later be seen to mirror that of his younger partner on the Commission, Apirana Ngata.

Stout was also an ardent land reformer with a lifelong antipathy to the landlord system which had resulted from witnessing some of its crueller aspects, such as the eviction of crofter tenants. He supported state intervention in the land question because to him land was a resource for solving urban problems such as poverty and unemployment. His ideal was a nation of small holdings, secured by the state.⁷¹ Furthermore, in the evolution of his political views, Stout was guided by his antipathy to a class society, and was afraid that before long New Zealand would have the same social problems as the Old World, with a powerful land-owning class leaving the mass of the population landless. Stout opposed pre-emption and the sale of land by the state, and therefore became a strong advocate of state leasing.

Stout maintained that the adoption of a system of leasing was the most desirable and profitable way for the Crown to dispose of lands. His views were founded on the fact that land being strictly limited in supply was not like other commodities, and consequently could increase in value without expenditure on the part of its owner simply as a result of growth in population and the general expansion of the community. Stout considered that this unearned increment should go to the people and not to the particular land owner. For this reason he advocated a system under

⁶⁸ Ibid.

⁶⁹ David Hamer, Robert Stout in NZDB, Vol II, p.485.

⁷⁰ Ibid., p.485.

⁷¹ Ibid., p.485.

which the Crown would lease State lands at a rental fixed from time to time on the revaluation of the land.⁷²

His career in national politics did not last long however, and Stout resigned from both the ministry and House in 1879, stating the need to pay more attention to his very active legal career. Nevertheless, in July 1884 Stout was returned to the House as member for Dunedin East, and by August he had become Premier, in a ministry formed with Julius Vogel. This time, Stout hoped to continue his political career as the leader of a new liberalism in a new era. In an article on 'Political Parties in New Zealand' in the Melbourne Review of January 1880, Stout made clear his preference for a party system based on a division between 'Conservatives' and 'Liberals'. However, although claiming to be a liberal Stout was not backed by any liberal party, and in the general election of 1887 he lost his seat, and decided that he could be of more use to the liberal cause outside Parliament.

Stout was appalled at the appearance in New Zealand of Old World social evils such as sweated labour, strikes and poverty, and believed that decisive political action was required to remedy this state of affairs. Thus, he played an important role in the industrial crisis of 1890 where he did much to 'forge a reconciliation of labour and middle-class liberal interests on a common platform of labour reform.'⁷³

However, Stout could not stay away from the parliamentary fray. Surrounded by a small group of left-wing supporters, he was re-elected to the House of Representatives in 1893 in a vain attempt to gain the party leadership in succession to John Ballance. His quest failed in the face of Seddon's determination, and he became increasingly alienated from the development of party politics, 'which offended his strong sense of individualism'. Seddon's new Liberal regime allowed minimal scope for the influence which Stout believed needed to be exerted by those who kept in touch with the latest trends in political and social theorising.

Stout had seemed able to maintain this kind of theoretical relationship with the world of practical politics as long as his political ideologue and friend, John Ballance, was premier. With Seddon in power, Liberal politics seemed to be lacking in contact with political theory and principle, and Stout objected to Seddon's autocratic control and the rigid discipline enforced by caucus. He was able to exert little influence over Seddonist politics, and became frustrated at being forced into the role of ineffectual critic.⁷⁴ Stout's view of politics had developed from theories that now had little relevance to the situation in 1890s New Zealand, and his liberalism bore little resemblance to the ideas and aims of the Seddonian Liberal Party.

Amidst a deepening antipathy towards Seddon, and a bitter relationship with the Liberal government, Stout retired from politics in early 1898. In June of the following year he was appointed chief justice of the Supreme Court, a position which he held until his retirement on 31 January 1926. Although his appointment was politically convenient for his rival Seddon, it was not seen as a mere act of political expediency, for Stout was regarded as one of the country's outstanding legal practitioners.

⁷² W.H. Dunn and I. L. M. Richardson, Sir Robert Stout: A Biography, Wellington, 1961, pp.49-50.

⁷³ David Hamer, Robert Stout in NZDB, Vol II, p.486.

⁷⁴ Ibid., p.486.

Sir Robert Stout was destined to serve as Chief Justice of New Zealand for twenty-six years and seven months. In this capacity, Stout decided over 1,400 cases, 450 of them as a member of the Court of Appeal. Assuming the office in his fifty-fifth year, he brought to it a range and variety of experience hard to parallel. His knowledge of the law had been secured in action, in grappling with the best talent that New Zealand could offer. He had read widely throughout his life and had pursued a study of the history and theory of law, and was regarded as a man who learned to act upon his own initiative. Through study and experience he was well fitted to occupy the supreme judicial position in the country. 'In his work he had mastered the habit of analysis and deduction; in his political experience he had developed his liberalism; and the one acted as the necessary check on the other.'⁷⁵

A significant feature of Stout's tenure of the chief justiceship was the general esteem in which he was held. His standing in the eyes of the general public brought added lustre and respect to his office. Even at the beginning of his chief justiceship, Stout was an almost legendary figure to the people of New Zealand. 'The passage of time had dulled the antagonisms of the earlier days, and his assumption of office received the wholehearted approval not only of the legal profession but also of the general public.' Having started with the advantage of being a national figure, his prestige and popularity increased year by year. He had great natural aptitude for the position; his kindliness of heart and solicitude for the welfare of the people were well known, his courtesy and his impartiality facets of a character which held the confidence and affection of the people.⁷⁶

As the Chief Justice, Stout consistently applied a liberal construction of statutes. His liberalism survived his translation to the Bench and manifested itself particularly in his pronouncements on social questions. He was opposed to extensive government regulation but saw a need to regulate private enterprise to protect the public interest against the effect of monopolies. However, aside from the tenets of liberalism Stout also maintained a strong practical interest in social and educational issues throughout his career. Serving as a member of the Otago Education Board, and as Minister of Education, Stout advocated the development of secondary education, was a strong supporter of technical education, and vehemently opposed the teaching of religion in schools.⁷⁷

Furthermore, the development of the New Zealand university system probably owed more to Stout than to any other individual. From 1885 to 1930 he was a member of the senate of the University of New Zealand, and served as chancellor for twenty years. He was also a member of the council of the University of Otago, and was the principal founder of Victoria College in Wellington, fighting for its establishment against the opposition of other ministers. Stout emphasised university teaching at the expense of research, opposed either professorial or bureaucratic control of the universities, and was a strong supporter of external examinations. 'To gain his ends he engaged in highly partisan tactics and was far from neutral as chancellor.'⁷⁸

⁷⁵ Dunn and Richardson, *Sir Robert Stout: A Biography*, pp.160-161.

⁷⁶ *Ibid.*, p.173.

⁷⁷ Sir Robert Stout was also an influential champion of equal rights for women, and in 1878 introduced the Electoral Bill which made woman ratepayers eligible to vote and to stand for Parliament.

⁷⁸ David Hamer, Robert Stout in *NZDB*, Vol II, p.487.

While Stout's biographers tell us a great deal about his activities in the Pakeha world, it is remarkable that they say little about his work in the Maori world. Stout maintained his somewhat moralising and paternalistic attitude in his approach to Maori land matters. In his later years he treated the issue somewhat as a charity case to which he elected to give his time and knowledge. Stout seemed to believe quite simply that if Maori were to follow his advice then they could achieve a comfortable standard of living, housed on land of their own.

Voicing his opinion in public addresses, political speeches to Parliament, and in published articles, Stout applauded the communal nature of Maori farming, and praised the success of farming experiments such as those of Ngati Porou.⁷⁹ Stout did not want Maori to just sit on their land and do nothing with it. 'Let the Maori in the future take to agriculture'⁸⁰ became a common catch-cry of Stout's, and he encouraged young Maori in particular to take to farming. He frequently called for Maori to use their land 'properly' and expected them to be an active and industrious people, working hard to gain the necessary skills and knowledge in order to farm the prosperous lands of New Zealand productively. Sir Robert encouraged Maori to utilise their lands or alternatively to give it up for lease or sale.

However, Stout did adopt a paternal, and almost patronising attitude in dealing with the Maori, and treated them as rather idle children who he believed were somewhat loath to help themselves. In an 1895 article, Stout wrote that:

'if the Maories [sic] were thrifty and active, they could all, with the land now in their possession, be more comfortable than they are, and could become wealthy; but unfortunately, they are not thrifty as a race, nor have they been trained to hard work as agriculturists: hence their future is doubtful.'⁸¹

Nevertheless according to Brooking, throughout his career Sir Robert Stout was generally the most sympathetic of Pakeha commentators in dealing with Maori grievances, and was 'the only politician to use explicitly a social Darwinist type of explanation.' Stout argued that Maori needed large areas of land because their only future lay as pastoral farmers. Maori were, he stated on several occasions, 'at least a thousand years behind in race education and could not become manufacturers, industrialists or factory workers, for at least another millennium.'⁸² Although his eurocentric beliefs were typical of this time, Stout insisted that the settlement of Maori was the primary consideration in dealing with Maori-owned land, and emphasised the duty of the government to educate the Maori for farming and industry.

In a campaign speech delivered in the run up to the 1887 election, Stout called for Pakeha to treat Maori with kindness, and to preserve to Maori the rights that the colony and the Queen had guaranteed to them under the terms of the Treaty of

⁷⁹ See Stout's article, 'The Maori as Land Reformer', *The International* September 1908, pp.121-126. For further comments by Stout on the Maori land issue, see *NZPD* 1893, 81 pp.522-523; 1894, 85 p.556; and 86 p.386.

⁸⁰ *Wanganui Chronicle*, Monday 25 March 1907. and *Waikato Argus*, Monday 13 January 1908.

⁸¹ Robert Stout, 'New Zealand', *Imperial and Asiatic Quarterly Review*, July 1895. Early opinion of Maori land issues, taken from Stout's Pamphlet Collection, Turnbull Library.

⁸² Tom Brooking, 'Busting Up' The Greatest Estate of All: Liberal Maori Land Policy, 1891-1911, *NZJH*, Vol 26, No.1., April 1992, p.90.

Waitangi. Furthermore, Stout emphasised the importance of the *Native Rights Act 1865* which declared that Maori were to have equal rights with Pakeha, and called for Europeans to show humanity and consideration in dealing with Maori affairs.⁸³

In 1878 the Grey Ministry created a Native Land Claims Court to adjudicate the differences that had arisen between Maori and Pakeha on the east coast of the North Island. Stout, who had been substantially responsible for the establishment of the court, faithfully believed in the 'impartiality and equality' of the court system in solving Maori land issues, and firmly supported equal justice for Maori. In keeping with this belief was Stout's attitude in the dispute between the Maori and the colonists over the Taranaki confiscated land, which came to a crisis in 1879.

During the years which followed the land wars and confiscation, the Government failed to fulfil its promises to Maori about supplying reservations and implementing compensation awards. By 1877, the Crown moved to carry out surveys preparatory to the purchase of land, and in 1879 moved peremptorily to dispose of the remaining 'unoccupied' Maori lands. In the unstable conditions of the day it was inevitable that the government's actions would lead to trouble with the Maori, and under the direction of Te Whiti, Maori began to resist what they felt to be encroachments upon their rights.⁸⁴

Faithful to his conviction that the Maori would respond to fair and intelligent judicial treatment, Stout in his capacity as Attorney-General advised that Te Whiti and his followers should be tried in the courts for disturbing the peace.⁸⁵ In his opinion the Maori should have been encouraged to bring the whole matter of the confiscation before the General Assembly where the issue would have been dealt with strictly under the eyes of the British law he so admired. The government however chose a different course, and passed special legislation to allow for the holding of people (Maori dissenters) without trial.

Described by Attorney-General Findlay at the announcement of the Commission, as 'one of the greatest students of the Maori land problem,'⁸⁶ Stout spent much time investigating the intricacies of Maori land legislation which included scores of statutes passed since 1894. Stout believed that such legislation was in the 'biggest mess' that any legislation of the world was ever in, and desired to do something about it all. As a member of the Native Affairs Committee when he was an MHR, and as Chairman of the Statutes Revision Committee during his time as Chief Justice, Stout was instrumental in attempting to sort through and clarify, the patchwork of contradiction and inconsistencies that was Maori land legislation.⁸⁷ Thus, as Stout was known for

⁸³ Sir Robert Stout, 'Political Address by the Hon. Sir Robert Stout, Premier, New Zealand. Delivered at Marton on 11 March 1887', Reprinted from the *Evening News, Napier*. Held in Pamphlets Box, Macmillan Brown Library, University of Canterbury. This speech did not solely address the issue of Maori land, rather the matter was covered by Stout as part of his general discussion of relevant campaign issues. However, Stout does sound somewhat like a humanitarian here!

⁸⁴ Dunn and Richardson, *Sir Robert Stout*, pp.71-73.

⁸⁵ *Ibid.*, p.73.

⁸⁶ The *PRESS*, 19 January 1907. p.9.

⁸⁷ *NZPD* 1907, Vol 142, p.1036 and The *PRESS*, 19 January 1907. Stout in his later role as Chief Justice, once the Commission was completed, continued his attempts to compile and consolidate the vast areas of Maori land legislation, and was highly respected for the work he did. This was perhaps a precursor to the later work by Ngata and Salmond which resulted in the *Native Land Act 1909*.

his grasp of the issues relating to Maori land, and for his understanding of the Maori cause, most iwi were willing to accept his advice in his newly-appointed capacity as chairman of the Native Lands Commission.

Butterworth writes that the Commission was calculated to bring home to the Maori some of the problems and responsibilities of land ownership, and believes that Stout was peculiarly fitted for this. He put matters plainly and simply before Maori and they were impressed with his dignity and kindliness.⁸⁸ Stout's vision, both as an MP and as chief justice, was clear. He recognised that the Maori people had many legitimate grievances and that much of the fault lay at the door of the Pakeha settlers and government. Stout strove thenceforth to do all that he could to guarantee justice to the Maori, to promote their welfare, and to bring about mutual understanding and goodwill between Maori and Pakeha.

According to David Hamer, few individuals have equalled the range and duration of Stout's contributions to New Zealand public life. He gained a foremost position in politics, the law and university education. In later life he filled the role of eminent public figure to perfection. His fondness for pronouncing and moralising on almost every public and intellectual issue of the day, including the Maori land debate, contributed to the development of his public image, and continued his influence on public affairs.⁸⁹ Such a career history no doubt presented Stout to the nation as an eminently suitable chairman of the Native Lands Commission.

Apirana Ngata - Stout's partner on the Commission - although radically different in respect of age, ethnicity, and cultural background, had a career history which also met with much approval from both Pakeha and Maori, who saw Ngata as the appropriate person to aid Stout in the Government's efforts to solve the Maori land problems.

According to Barbara Gilmore, it is significant that Apirana Ngata, a stalwart opponent of individualisation of Maori land and a firm believer in giving Maori people the maximum opportunities to enable them to work their own lands, was chosen as one of the two Commissioners.⁹⁰ Although the Liberal Government was yielding further to the pressure for more land for Pakeha settlement, it did attempt to conciliate the Maori and those in Parliament who were concerned with Maori interests, by appointing as one of the Commissioners a man who was aware of the Government's dilemma and who would attempt to mediate the differences in Pakeha and Maori thinking.

Apirana Ngata of Ngati Porou was born on the East Coast in 1874. He was brought up by his father Paratene Ngata and Paratene's adopted father Major Rapata, in a thoroughly Maori background. There he was taught the tribal history and Maori legends, and 'the old people crooned traditional songs to him.'⁹¹ For much of this childhood, the only Pakeha resident amongst Ngata and his hapu, were a handful of school teachers and traders. Maori was the everyday language and Maori custom and social organisation remained unchanged. Paratene Ngata was a notable figure in his

⁸⁸ G.V. Butterworth, *The Politics of Adaptation: the Career of Sir Apirana Ngata, 1874-1928*, MA Thesis, University of Canterbury, 1969, p.124. and NZPD 1911, Vol 154, p.731.

⁸⁹ David Hamer, Robert Stout in *NZDB*, Vol II, p.487.

⁹⁰ Gilmore, 'Maori Land Policy and Administration during the Liberal Period', MA Thesis, p.49.

⁹¹ Butterworth, 'The Politics of Adaptation', MA Thesis, p.14.

own right, and by the 1890s was the most important active leader of the Ngati Porou.⁹² Such displays of tribal leadership and organisation stirred in Ngata the belief that they were the only effective way of organising Maori society.

According to Butterworth, it is 'impossible to over-stress the importance of Ngata's tribal background,'⁹³ and the people who influenced his life and moulded the philosophies he held as an adult. A significant part of Ngata's development was the lessons he learnt as a young man from Paratene Ngata, and other tribal elders such as Wi Pere - lessons he carried with him upon his appointment to the Native Land Commission. He was raised by them to understand the traditional wisdom of the Maori and observance of customary protocols, whilst at the same time was made aware of the history of Maori land grievances and Maori reaction to these. Paratene Ngata and Wi Pere instilled in the young Ngata a sense of belonging to Ngati Porou, a people with a proud tribal tradition to live up to and a living tradition of Maoritanga to maintain.⁹⁴

Ngata's political development also lay in the East Coast where there was much discussion of Maori land issues. In general, both Wi Pere and Paratene Ngata took the 'moderate side' on issues of Maori politics,⁹⁵ and in particular opposed the creation of a separate Maori parliament. Under their influence, Apirana Ngata's political ideas developed in a similar direction and like his elders, he grew to favour Maori local self-government and opposed individualisation of land titles as too expensive.

However, Wi Pere's greatest concern was the impact of Maori land legislation, and in particular the operations of the Native Land Court which determined the traditional title to Maori land, block by block. It replaced this traditional title by issuing Crown grants, and it heard claims by which individuals could have their shares partitioned from the communal block. Where the court had done this work, Pakeha settlers could buy land from individual Maori, making the purchasing of Maori land so much easier that the process of alienation could no longer be controlled by the Maori through their tribal leadership.⁹⁶ Pere felt that the Native Land Court had left land titles in a mess, and was forthright about protecting Maori from Pakeha domination.

Wi Pere was also particularly concerned with helping Maori to retain their land and farm it themselves, and was dogged in his pursuit of Maori self-administration through communal farming and incorporation. It was Maori support for this idea which saw him elected to Parliament in 1884 in the Eastern Maori seat. Nevertheless, Pere also believed that Maori were 'weaker' and needed government protection for a time because they had not passed out of the old customs and conditions of their 'race'. Like Pere, Ngata became a strong advocate of protective legislation, favouring some degree of legal protection for the Maori in order to smooth the path of Maori transaction into the Pakeha world. Ngata commented that 'without it [legal

⁹² Ibid.

⁹³ Ibid., p.14.

⁹⁴ Wi Pere was the leading chief of the Rongowhakaata of Gisborne - a successful sheep-farmer who encouraged his own people to take up farming.

⁹⁵ John A Williams, *Politics of the New Zealand Maori: Protest and Cooperation, 1891-1909*, Oxford, 1969, p.98.

⁹⁶ Williams, *Politics of the New Zealand Maori*, p.69.

protection] would be like turning a child of ten out in the world to earn its own livelihood.'⁹⁷

Ngata originated from areas little affected by the New Zealand Wars of the 1860s, and Pakeha settlement, and there were still large areas of Maori-owned land in the East Coast region from whence Ngata came. Towards the end of the nineteenth century, Ngati Porou, led by Wi Perè and Paratene Ngata, made an effort to compete in the Pakeha agricultural economy. Many Maori took up sheep farming and dairying, whilst others commenced felling bush country and improving their lands.⁹⁸

To overcome the difficulties that Maori faced as individual farmers, Ngati Porou endeavoured to turn the tribe into a 'sort of sheep-farming corporation.'⁹⁹ From among the iwi, a committee was formed in order to manage this growing enterprise of communal sheep-farming. The committee like a board of governors worked out policy, leaving detailed supervision to the manager. The committee was in turn responsible to the bulk of owners, who retained the 'supreme mana' and also provided the wage labour for clearing, fencing, shepherding, and shearing.¹⁰⁰

The experiment of incorporation, or communal farming, thus began on the East Coast. Furthermore, a trust scheme was also established whereby the management of the land was undertaken by government-nominated Pakeha trustees. In this way Ngati Porou made a positive move towards bringing 'idle' land into production, and suspended the advance of individualisation. Thus, some of Ngata's views on incorporations stemmed from this experience. Through these schemes, largely organised by Paratene Ngata, ideas of Maori self-management and of the possibility that Maori could farm their own lands were instilled into the young Ngata. He witnessed first hand the progress being made by Maori land owners in farming and related industries on the East Coast, and as a politician would use their success to promote the ability of Maori to productively utilise their own lands.

However, a great flaw in the system of incorporation was that it lacked the protection of the law. Paratene Ngata had requested legal powers for such committees in 1886 and 1891; Ngata himself would later repeat the request in 1897.¹⁰¹ In the years from 1891 to 1893, these requests received notable support from a few Pakeha. The radical W.L Rees, a loyal follower of Sir George Grey and a member of the Native Land Commission of 1891, regretted the destruction of the 'old system of representative action practised by the chiefs' in pre-Pakeha times. His report recounted the efforts of Pakeha and Maori, from the time of Grey's 'new institutions', to re-establish the system in modified and legalised form and told of the surprising recent success of the East Coast Maori in acting even without legal authority. Rees concluded that the time had come to try again.¹⁰² However, Parliament made no move to carry out Rees' recommendations for Maori self-government.

⁹⁷ Ibid., p.102.

⁹⁸ In the Waiapu County, Ngata's home district, 60 000 acres of bushland was cleared, and around 90 000 sheep, 3500 cattle and 8200 pigs ran on the land.

⁹⁹ Williams, *Politics of the New Zealand Maori*, p.85.

¹⁰⁰ Ibid., p.85.

¹⁰¹ Ibid., p.85.

¹⁰² Williams, *Politics of the New Zealand Maori*, pp.85-86.

Rees himself was a lawyer from the East Coast, and had been directly involved with Ngati Porou land development. He had also worked closely with Ngata's mentor, Wi Pere, and as a friend of Pere, was a further influence on the young Ngata's thinking. Rees admitted that Maori land had to be opened for settlement, but he insisted that the Native Land Court, with its huge backlog of cases, and not the Maori people who were willing to sell on fair terms, was to be blamed for the delay. He believed that co-operation with Maori in developing the country had never been attempted and Maori had never received from the government 'the fulfilment of promises made to them when they became subject to the British Crown.'¹⁰³

Furthermore, Rees thought that the Ngati Porou experiments of incorporation were both practical and enlightened, and if legalised by Parliament would enable Maori as a community to manage their own lands, to educate their own children, and to improve their entire standards of living. To focus public attention on such views, Rees and a number of others formed a Native Land Laws Reform League early in 1893. Its main purpose was to secure legislation for the management of tribal and hapu lands by their owners acting in a corporate capacity, and also, to open up surplus land for settlement in the best interests of 'both races'. Duly impressed by such rare Pakeha endorsement, Wi Pere was among a few Maori who also joined the League in support of Rees' proposals.

With Pere, Rees attempted to develop Maori tribal land, and in this drew a connection between his and Ngata's line of thinking. Ngata soon became familiar with the tactics suggested by both men, and identified with their views. The problems and solutions for Maori and land development recommended by Rees also increased Ngata's awareness of the problems on the East Coast.

Despite successfully maintaining more lands than most iwi, the leaders of Ngati Porou and their people did experience somewhat, the demoralising effect of the Liberal policy of Maori land purchase. It began in 1891 when the Liberal Government resumed the Crown's right to be the sole purchaser of Maori lands. Extensive land purchasing by the Crown was resumed throughout the North Island, and for the first time Ngati Porou felt the full pressure of Pakeha land hunger.

Although they preferred to lease their land, tribal elders were willing to bring the back country before the Native Land Court for it to define ownership, award titles, and even allow the land to be sold. However, the purchase officers were not willing for matters to rest there and started to buy into the better class land. By acquiring interests in such blocks this endangered the established communal farming of the East Coast, and threatened the whole structure of tribal authority, as control of the use and disposal of land had been the prerogative of the chiefs and elders in consultation with

¹⁰³ Ibid., p.86. See also, Rees' thoughts on the Maori Land Laws which he believed had led the Maori to languish: '...the whole course of legislation and procedure upon this subject [Maori land purchasing] has been a gigantic failure...The Natives [sic] have been degraded. The chiefs and leaders, who had both power and will to guard their people, have been tied hand and foot by our laws, and with bitter hearts have stood hopelessly by, seeing their tribes debauched and plundered under the protection of the law...') W.L.Rees, Memorandum on the Native Land Laws, *AJHR* 1884, G. -2., Session II, Vol II, pp.1-5.)

the assembled hapu and whanau.¹⁰⁴ As leaders of Ngati Porou, Wi Pere and Paratene Ngata felt this loss of control over some of their tribal lands keenly.

However, with this crisis in tribal affairs, the Ngati Porou leadership which had successfully established Maori farming incorporations, reasserted itself. In 1895, Paratene Ngata on behalf of Ngati Porou, withdrew all blocks waiting to have their ownership decided and thus all purchases by the Crown were suspended. Ngati Porou thus managed to retain extensive acreages of their land.

Apirana Ngata personally witnessed all of this affair, and learnt much from Ngati Porou's experiences of the land-hungry Pakeha government and its handling of Maori land issues. The impact of unrestricted individual land-selling on his tribe made him a bitter opponent of such policies for the rest of his life, and left him with a cautious if not suspicious attitude towards Pakeha policies. Through the influence of Pere and his father, Apirana Ngata became aware of the failings in Maori land legislation, and determined to set this right. He drew the moral that Maori had to be safeguarded by legislation from rendering themselves landless, and that land dealings had to be conducted through institutions that had effective Maori representation. This probably instilled in Ngata the lesson he would later point out repeatedly to the Maori community; the only way to hold their land was to use it.¹⁰⁵

Having spent his childhood and teenage years living on the East Coast amongst the tribal organisation of Paratene Ngata, and the 'politics' of Wi Pere and Rees, this enabled Ngata to witness life from a Maori perspective and become aware of the dilemmas which faced Maori land owners and their iwi. However, away from the East Coast, Ngata further developed ideas and established the goals that he would pursue throughout his career.

In 1882 Ngati Porou elders received a message from whanau who were teaching at Te Aute College, urging them to send pupils to the school. Apirana Ngata was among those chosen, and consequently received much of his primary and all of his secondary education under the headmastership of John Thornton who was to become another of Ngata's mentors. Thornton was a strict tee-totaller, and this plus elementary laws of hygiene, neatness and thrift he constantly urged upon his pupils. His ultimate aim was to 'save the Maori race' by producing 'Christian gentlemen' who would live useful and respected lives.¹⁰⁶ The emphasis on thrift, frugality, temperance, and hard work that Paratene Ngata had instilled were reinforced. Thus, Te Aute and its headmaster undoubtedly exercised a major influence on Ngata.

Thornton's idea of education was to 'form the character of students in such a way as to influence the whole Maori people.'¹⁰⁷ He was determined that Maori children should not be deprived of the opportunity of a professional career, and great stress was laid on teaching English, both written and spoken. However, the education at Te

¹⁰⁴ Graham Butterworth, *Sir Apirana Ngata*, Wellington, 1968, p.6. Individual and secret land purchases also gravely weakened social control. The cheque book of a land purchase officer being ever present to help gamblers find the cash to continue, and to provide plenty of alcohol to those who desired it. Drinking became a major problem at this time.

¹⁰⁵ *Ibid.*, p.7.

¹⁰⁶ *Ibid.*, pp.17-18.

¹⁰⁷ Butterworth, 'The Politics of Adaptation', MA Thesis, p.16.

Aute did not necessarily make the boys more Pakeha than Maori - indeed Ngata remarked that 'Te Aute taught us loyalty to race.'¹⁰⁸ Thornton broadened the boys' mental horizons yet he still encouraged the concept of the tribe as the most important political and social unit of the Maori people. This, writes Butterworth, was 'probably one of the most valuable of all experiences that Te Aute gave'¹⁰⁹

Apirana Ngata proved well able to benefit from Thornton's teaching, and with a scholarship supported by the elders of Ngati Porou, went on to Canterbury College (university) where he became the first Maori to graduate with a BA degree in 1893. Majoring in Political Science, he completed his MA in 1894 taking Honours, and then proceeded to Auckland where he chose to study law, passing his LL.B. in 1896.

For Ngata, these years of education at Te Aute, and afterwards at university, were years of intense intellectual development as he assimilated Pakeha knowledge. However, his characteristic ideas had already been formed away from Pakeha institutions, and by 1896 his main views had emerged. Associated with the elements of Ngati Porou that were opposed to land-selling, he became active in land matters on behalf of his tribe,¹¹⁰ and spent much time organising Maori to cultivate and farm their lands in the East Coast. Furthermore, well prepared by his education and by his legal training for a career in Pakeha circles, Ngata decided at an early stage to devote his life to Maori reform. For Ngata, social reform meant three things: 'reform in public health and social life, to arrest Maori population decline; Pakeha education for Maori to fit them for life in a modern state; and financial and legal assistance to help the Maori develop their land.'¹¹¹

As a result of his school connections, Ngata was one of the founding members of the Te Aute College Students' Association (later known as the Young Maori Party) which was formed as a social reform movement early in 1897. Consisting mainly of university students, the association was representative of the small group of young Maori with secondary school education and was dedicated to ameliorating the social conditions and health of the Maori. In 1898 Ngata took the position of travelling secretary for the Te Aute Students' Association. Both he and other members of the Association threw themselves into reforming the social and economic condition of the Maori, and were particularly concerned with Maori sanitation and prohibiting the sale of liquor.

For Ngata this marked another stage in his career, as he quickly became the recognised spokesman for 'the new educated generation.'¹¹² His political career is often dated from this founding of the Te Aute College Students' Association. (See earlier discussion of the Te Aute Students' Association/Young Maori Party in Chapter One.)

¹⁰⁸ Ibid., p.19.

¹⁰⁹ Ibid.

¹¹⁰ Ibid., p.14 and p.20.

¹¹¹ John A. Williams, 'The Foundation of Apirana Ngata's Career 1891-1909', in J.G.A. Pocock, ed, The Maori and New Zealand Politics: Talks from a NZBC Series with additional essays, Auckland, 1965, p.55.

¹¹² Butterworth, Sir Apirana Ngata, p.7. At the inauguration conference of the Te Aute College Students' Association, Ngata was the star attraction where he read four papers and led the discussion of others. In particular, these papers summarised his desire to ameliorate the social and economic condition of the Maori community, and called for Maori unity in an effort to achieve this. See papers by A.T. Ngata, in Papers and Addresses read before the First Conference of the Te Aute College Students' Association (TACSA), June 1897.

Ngata personally advocated preserving some elements of Maori tradition as the best base on which to build a future, but also believed that the Maori would eventually be absorbed into the Pakeha population but not in the immediate future. Ngata foresaw, rather, a 'race possessed of a strong national sentiment, conscious in all its parts of a distinct and separate existence, but none the less subject to law and government, loyal to the flag that protects it, giving of its best...to the welfare of the state, deriving its health and strength from the wisdom of the English.'¹¹³

By the turn of century, Ngata's strength lay in his ability to demonstrate to the Pakeha that some Maori at least were the Pakeha's equals, sharing the values and aims of the settler society. Ngata maintained therefore, that Maori were entitled to the same rights and benefits as the Pakeha, including assistance to develop their lands and the right to be consulted on matters that affected them.¹¹⁴ 'More at home' with the Pakeha ways than most of his elders and better at communicating with them,¹¹⁵ Ngata endeavoured to present Maori opinion to the Pakeha public in an effective and acceptable form, while at the same time persuading his own people that not all of their wishes were realistic. Ngata urged co-operation between Maori and Pakeha, and an understanding of the others' culture.

Through his connections with Te Aute and its Students Association, Ngata had met James Carroll, but it was at this time that Ngata became a colleague and employee of the Native Minister. In 1900, as detailed in Chapter One, Ngata assisted Carroll with the drafting of two important pieces of legislation - the *Maori Lands Administration Act 1900* which provided for the establishment of Land Boards, controlled by Maori, to administer the sale or lease of their land, and the *Maori Councils Act 1900* which provided for elected councils to undertake a number of local government and health functions - both designed to allow Maori a greater say in their affairs.¹¹⁶

Carroll's policy was to try and stop the wholesale alienation of Maori land until a new generation of Maori had learnt to farm the land for themselves. However he required 'able lieutenants' to carry this policy out. Carroll wanted an energetic young leader from the Maori people and one fluent in English, to actively educate the Pakeha both inside and outside Parliament - Apirana Ngata was an obvious choice.¹¹⁷ Subsequently Ngata was elected to Parliament in 1905, where he defeated his mentor the elderly Wi Pere to gain the seat for Eastern Maori. Indeed, without wanting to offend Pere, it is probable that Carroll lent his covert support to Ngata's election campaign.¹¹⁸

¹¹³ Apirana Ngata, 'A Plea for Maori Unity', Papers and Addresses read before the Second Conference of the TACSA, December 1897, (Napier, 1897), p.25.

¹¹⁴ Butterworth, 'The Politics of Adaptation', MA Thesis, p.41.

¹¹⁵ Williams, Politics of the New Zealand Maori, p.156.

¹¹⁶ Consequently, Ngata was employed as the Organising Inspector of Maori Councils from 1902 to 1904 when Carroll was Minister in charge of Maori Councils. (Butterworth, New Zealand Law Journal, (August 1985), pp.242-243.)

¹¹⁷ Butterworth, 'The Politics of Adaptation', MA Thesis, pp.110-111.

¹¹⁸ In discussing Ngata's election itself, it had become apparent by 1905 that Ngati Porou needed somebody who could adequately represent their interests in Parliament. Because of his upbringing with Paratene Ngata and Wi Pere, and his involvement with the successful farming ventures of the East Coast, hence Ngati Porou nominated Apirana Ngata as their candidate for the Eastern Maori MP. In fact Ngata had already been selected for a political career by both his family and his tribe. John Thornton of Te Aute, Ngata's other great mentor, also

Once in Parliament, Carroll taught Ngata the ropes of being a politician, and assisted in his early political career. Ngata intensely admired Carroll who although had received a traditional Maori education, was fluent in the Maori language, and was familiar with Maori customs and lore, was also a great orator in English. For his part, Carroll appreciated Ngata's great administrative ability, and in the following years was to make full use of his energy and skill. Ngata's relationship with Carroll brought a much better balance to the process of Maori land dealings, in that together they saw that Maori were given some rights and more importantly some opportunities to preserve and utilise their lands.¹¹⁹ Both men adhered strongly to the view that the Maori were better off farming their own lands than becoming dispossessed and forced to migrate to the towns where their livelihood was far from guaranteed.

Together Carroll and Ngata attempted to disabuse Pakeha of their misconceptions about Maori land, and tried hard to prick the conscience of the Pakeha MPs. Through eloquent and powerful oration they told Parliament of the desire and aspirations of Maori to retain their lands.¹²⁰ Ngata's goal, like Carroll's, was to preserve as much Maori land as possible for the Maori. And like Carroll, he believed that he could achieve more for Maori from a position within government than from outside of it.

While Ngata did not object to 'idle' and 'unproductive' Ngati Porou lands being bought by the Government, it was the purchase of improved lands which he was opposed to. He believed the communal farming experiments that Ngati Porou were carrying out were being jeopardised by Crown purchase, and did not regard the Liberal policy of resuming the Crown's pre-emptive right as being in the best interests of the Maori people.

However, in spite of this, Ngata chose to join the Liberals when he entered Parliament in 1905, for if he opposed government policy, he disagreed more with the Opposition, who were committed to free-trade and individualisation. Ngata commented that while individualism may have been the objective of the Pakeha, it was not the ideal of the Maori. From his position in Parliament, Ngata vigorously opposed individualisation, fearing it would break the land into scattered and uneconomic blocks which would then be easily lost to land speculators or the Crown.¹²¹ In reply to Pakeha calls for individualisation of Maori land, Ngata maintained that 'individualisation must wait until the Maori became advanced in business acumen. If the 'free-traders' policy of individualisation was expected to bring the Maori into the same position as the European in land tenure and disposition, a fair start should be given to the Maori, otherwise their relative position would not be analogous.'

As an MHR, Ngata continued to work, 'with amazing consistency', for the ideas he had first developed early in his career.¹²² His political power was based on the unity first achieved in the Maori parliament, and the main lines of his programme were based closely on Maori opinion of the 1890s which he had imbibed from the likes of

supported his political activities. Thus, as a tribal candidate, the support Ngata received from his iwi was the single biggest factor in his electoral victory. (Butterworth, 'The Politics of Adaptation', p.89.)

¹¹⁹ Butterworth, *New Zealand Law Journal*, (August 1985), p.243.

¹²⁰ *NZPD* 1907, Vol 139, p.152.

¹²¹ O'Brien, 'The Stout-Ngata Native Land Commission,' BA(Hons) Essay, p.26.

¹²² Williams, *Politics of the New Zealand Maori*, p.158.

Wi Pere, Paratene Ngata and the Kotahitanga Maori Parliament. However, Ngata realised more so than the older generation of his youth, that the Maori could never achieve all their wishes. He took up Maori grievances but limited his goals and worked within established Pakeha procedures.¹²³ Like Wi Pere before him, Ngata was not a great supporter of the Kotahitanga Parliaments, and did not believe in the need for a separate Maori parliament and Maori political autonomy. However, he did applaud its efforts to overcome tribal jealousies and weld the Maori into one people,¹²⁴ and saw it as a real means of reaching his people. Ngata's first political campaign which resulted in the legislation of 1900 (as discussed in Chapter One), was launched within the Maori Parliament.

To Parliament and the world of Liberal Maori affairs, Ngata also brought great charm, and an outstanding ability in oratory. To this was added his negotiating ability, his writing skills, a formal legal training and a very acute legal and administrative ability. This education, and a keen sense of reality enabled Ngata to understand the Pakeha viewpoint and accept the need to try to satisfy both sides.

Thus the key to Ngata's success was twofold: mastery of the traditional wisdom of the Maori, and observance of customary protocols in dealings with Maori; coupled with a sound background in Pakeha education. However, this combination of his Maori-Pakeha background would become one of the great dilemmas of Ngata's career.

Upon entering Parliament, Ngata walked a tightrope between Maori and Pakeha expectations. He was faced head on with the dilemma of his upbringing and the clash of interests between his Pakeha and legal education, and his desire to maintain Maoridom's traditional tribal organisation and a sense of Maori identity. He was thus faced with the great difficulty of trying to sustain Maori ownership of their land whilst placating a Pakeha society who were increasingly demanding more land to settle upon. Maori saw Ngata as somebody who could identify with their problems, and in voicing Maori interests above those of his Liberal Party, Ngata frequently found himself in somewhat of a political predicament. Having accepted that some compromise must be made between land-hungry Pakeha and resistant Maori, at the same time Ngata frankly stated that the Maori ideal was to be left alone.¹²⁵

Ngata was admired personally by his own iwi for the work he was doing and his advocacy of East Coast interests in Parliament. Ngata had proved that he was able to defend his tribe's interests and act as spokesman for Maori opinion. Maori farming was recognised as an important part of the economic activity of the East Coast, and Ngata was recognised as its principal inspirer and organiser. He saw the whole kinship system which culminated in the tribe and its associated Maori values, as capable of being translated into the modern world. He did not believe the Maori could merge entirely into the Pakeha social and land system, but he was confident Maori could participate in sheep and dairy-farming. Communal farming was the key to this. Ngata favoured working the land through incorporated tribal committees, and in this way the tribal authority and communal basis of Maori society could be preserved.

¹²³ Ibid., p.159.

¹²⁴ Ibid., pp.63-64.

¹²⁵ Elsie Locke, 'How the Land was Lost - The Third Wave', TE KARANGA: Canterbury Maori Studies Association, Vol 4; No.4., February 1989, p.27.

The mana of the tribe as a whole was bound up with its lands; to lose land was to lose mana. 'Man perishes, but the land remains', runs the Maori proverb - Ngata held to this view. Moreover, he believed that the ownership of the land was 'the only lifebelt' left to the Maori people in their struggle for survival. If it was lost it would be impossible to maintain the tribe.¹²⁶ Amongst Maori leaders of the period, especially Ngata, there was a realisation that if the Maori were to preserve their land from the encroachment of the Pakeha, the land would have to be worked. 'He [Ngata] was one of those optimists who thought Maoris [sic] were capable of becoming farmers, and instances of Maoris adaptability for farming were numerous in the Bay of Plenty and other districts.'¹²⁷

Ngata's aim was to inject large measures of state aid in the way of educational assistance, health and housing programmes, and finally - the keystone of his whole policy - state-aided Maori land development. 'These measures would make Maori communities viable social units in Pakeha society and give them an independent economic base.'¹²⁸

To a certain extent the Government had prevented Maori disposing entirely of its lands by ensuring that they did not deprive themselves of their land, or that belonging to their tribe and their successors. What remained undone was to give the Maori an opportunity to work their land, and this could not be done efficiently without monetary and educational assistance first being provided.¹²⁹ The time had come, said Ngata, 'when we have to look at this question from the standpoint of whether the Maori is not capable, under supervision and proper assistance, of farming a large area of his own lands. We should legislate for them first...We should give him a proper title, ample powers, financial assistance under proper safeguards, and expert instruction in farming pursuits.'¹³⁰

It was thus a pivotal belief of Ngata that Maori needed funding from the Government in order to give them the head start they needed to farm their lands. He emphasised the importance of encouraging and training Maori to settle their own lands efficiently. This could only be done however, through government funding for land improvements and agricultural instructors to advise upon farm and stock management. According to Ngata, facilities were given to Pakeha to go on the land, and he urged that similar facilities should be afforded Maori. He and other Maori MHRs pointed out the dangers of reducing the Maori to landlessness and making them a burden upon charitable aid. Consequently Ngata asked the Government to continue leasing land rather than purchase it outright. However, as a result of increasing pressure from the Farmers' Union and Pakeha settlers anxious for more land, Ngata's objectives became increasingly hard to meet.

¹²⁶ Butterworth, *The Politics of Adaptation*, MA Thesis, p.276.

¹²⁷ The *Gisborne Times*, Thursday 21 November 1907.

¹²⁸ Butterworth, *The Politics of Adaptation*, MA Thesis, p.276.

¹²⁹ 'Not even the European, [sic] with all his [sic] inherited instincts for agricultural pursuits, could do anything without the financial assistance he receives from the State and various people who are able to give it... As the Maori proverb says, He huruhuru te manu ka rere, (the bird must have feathers before it can fly)' [Peter Buck in the Address-in-Reply, *NZPD* 1911, Vol 154, p.157.]

¹³⁰ *NZPD* 1907, Vol 142, p.1042.

Yet in all this, Ngata's goals remained simple: the retention of Maori culture while adapting to the dominating Pakeha society; and the improvement of the Maori spiritually, economically, and socially.¹³¹ He felt therefore that the Commission to which he was appointed in 1907 provided a great opportunity to attempt to influence government policy and to achieve these goals. Nevertheless it placed a tremendous weight on his shoulders, for the Commission emerged as a matter of national importance for Maori and involved Ngata coming to terms with local circumstances and issues at an iwi level.

As the most junior of the Maori MHRs, and the one whose views most closely resembled those of the Native Minister, James Carroll, it is reasonable to assume that Ngata was Carroll's nominee to serve on the Commission. According to Loveridge 'having Ngata on the Commission was the next best thing to having Carroll himself.' On the whole, the Government could not have done much more to ensure that its goals of opening up more land for Pakeha farmers whilst protecting Maori from landlessness, were met without 'having Cabinet write the Commission's findings itself.'¹³²

Therefore, the Stout-Ngata Commission of 1907 was led by two men of exceptional intellectual status. Yet they were also two men of exceptional diversity highlighted by their differences in age, ethnicity, and upbringing. Stout had been born to middle-class Scottish parents into a strongly ascetic household thirty years before Ngata was born into a Ngati Porou whanau where the lifestyle had still been largely uninterrupted by Pakeha methods. Stout was a fairly much a product of his time; believing in the superiority of the British, the importance of money and the need for individuals to work hard to survive. He frowned upon the malices of drinking, gambling and smoking, and looked upon the Maori not as inferior, but as morally backward, uneducated and technically unadvanced. Stout felt he could change this.

Like Stout, Ngata was also educated and believed in the value of learning. He also desired to assist the Maori, and like Stout, he urged Maori to direct their energy towards agriculture. However unlike Stout, Ngata was passionate about his people - the Maori - and did not see them as backward or unadvanced. He firmly believed in their communal approach to the land, and the strength of their ties to hapu and iwi. Ngata did not see the Pakeha as a superior community to which the Maori should be assimilated, rather he wanted to protect the treasures of the Maori language, their culture, and the right to maintain their own sense of identity. And unlike Stout, Ngata did not believe that the only way to true happiness and piety was through hard work and Christian ethics - a sense of belonging to one's iwi, and the knowledge of Maori tribal custom and lore and the story of one's ancestors were cherished by Ngata.

The Commissioners first met when in 1894 Ngata approached the then politician Stout to try to get university scholarships established for Maori. Having been a student at Canterbury College, Ngata must have known of Stout who was the university's Chancellor. Therefore, knowing of Stout's interest in educational issues, Ngata must have thought to approach him in his capacity as a Member of Parliament to call upon the Government to provide for Maori university scholarships. Presenting himself as a

¹³¹ Butterworth, *Sir Apirana Ngata*, p.30.

¹³² Loveridge, *Maori Land Councils and Maori Land Boards*, p.65.

fine example, Ngata convinced Stout of the immense advantage tertiary education would be to the Maori people. Impressed by the success of 'this Maori' who had educated himself, Stout keenly took Ngata's request before Parliament, and presented the idea to Parliament as a fine way of spending spare Government cash.¹³³ Thus, Stout's first encounter with Ngata was a positive (and perhaps for Stout, an enlightening) experience.

However, up until the time of the Commission, Stout and Ngata really did not 'know' each other, and certainly not well enough to be classed as friends or even acquaintances. Stout's position and prestige preceded him, and he was a well-known political and public figure to Ngata. For Robert Stout, he had also heard of the young Ngata's reputation and seemed impressed. In a speech given just weeks before the announcement of the Commission, Stout had praised the success of certain Maori in attaining the highest honours at university, in particular Ngata whom he described as a brilliant scholar with plenty of intellectual ability.¹³⁴ Other than that, there is little evidence regarding the pre-Commission relationship between Stout and Ngata, and seldom comment on whether or not they agreed with each other's philosophies.

Upon the appointment of the Commission, Ngata appeared somewhat in awe of the fact he would be working on an issue so dear to his heart, with no less than the Chief Justice. According to Ngata he knew nothing about the Commission: 'When the message arrived from the Premier summoning me to Wellington, I was utterly ignorant of its purpose, and I heard for the first time on my arrival in Wellington of the desire of the Government that I should be associated with [Sir Robert Stout] the Chief Justice.'¹³⁵ Nonetheless, Ngata did not remain 'star-struck' for too long, and was quick to ensure that the learning was to be a two-way process. He took Stout to see the progress made on the East Coast and ensured that Stout met the outstanding Maori in each district. Stout was very impressed by them and with the progress made on the East Coast. He readily became a fervent apostle of Maori farming.¹³⁶

The Liberal Government was excited at the prospect of the Commission, and placed much emphasis on its role of solving the matter of Pakeha desire for Maori land, and Maori desire to farm and maintain their own lands. There was much hype and praise surrounding the announcement of the Commission, seen as some kind of saviour for the Liberal's dwindling government majority. Its work was expected to be speedy and thorough, and was seen in government circles as a fine example of their dedication to the welfare of Maori. As Ward enthused:

¹³³ As reported in the Parliamentary Debates, Stout addressed the issue to the Minister of Education, asking: 'whether he will make provision...for university scholarships for Maori and half-castes [sic]? There had been one or two young Maori educated in Canterbury College, and he was sure a considerable number more from Te Aute College would go thence...if there were means given them to do so...He [Stout] had in his hand a letter that he had received from a young Maori who had been at Canterbury College. This young man called upon him, when... he was in Napier and conferred with him on the subject. As he [Ngata] himself had reaped the advantage of being educated at a university college, he was anxious that other young Maori should have the same advantages that he had...[Stout] was sure it would be appreciated by the Maori race, and would be a perfectly justifiable means to which to apply some of that money.' (*NZPD* 1894, Vol 85, August-September 1894, pp.457-458.)

¹³⁴ *Waikato Argus*, 13 January 1907.

¹³⁵ *NZPD* 1908, Vol 145, p.1127.

¹³⁶ Butterworth, *The Politics of Adaptation*, MA Thesis, p.124.

'The welfare of the Maori race [sic] and the progress and development of New Zealand depend in considerable measure upon the success of the Commission in dealing with its great task, and it sets out upon its duties with the good wishes of all.'¹³⁷

¹³⁷ The PRESS, 1 February 1907

CHAPTER THREE - The Commission at Work

'The recommendations of the [Stout-Ngata] Commission, if given effect to, offer, I am glad to say, a hopeful prospect of utilising these lands for the common benefit of both races, by providing sufficient farms for the Maoris [sic] themselves and opening large unoccupied areas for European settlement.' (Right Hon. Sir J.G. Ward, NZPD 1907, Vol 139, p.424.)

The Stout-Ngata Commission was called upon to investigate - including the calling of evidence and the visiting of different parts of the country - certain lands owned by Maori which were deemed by Government to be lying 'idle and surplus'. The Commissioners were to ascertain the needs of the Maori owners both immediately and in the future. Having set aside such areas of land for the purpose of Maori occupation, they were then required to determine what areas could be made available for Pakeha settlement. The Commission was to recommend the most 'expeditious' way to conserve the interests of the owners, while at the same time keeping in the forefront, settlement by Pakeha.¹

There were two aspects to the Commission's work: the sittings it held throughout the North Island, and its gathering of data on the position of Maori land in each county from a variety of official sources. This chapter will discuss the Commission's work "on the ground" throughout 1907, when it toured many marae in the North Island theoretically not to push the 'opening up' of Maori lands, but to discuss with the iwi the areas they wished to retain and those they were willing to lease or to sell to Pakeha. The idea was to encourage Maori to use the finance from lease or sales to develop the remaining lands.

The Commissioners began work soon after receiving their appointment instructions. Their initial duty was to meet wherever possible Maori landowners, and to ascertain from them, their wishes with regard to the disposition and settlement of their land, and to find out exactly what Maori needs were. Stout and Ngata proposed to 'meet the Maori owners on their own ground, and to decide on the spot what areas were required for their use and what they were willing to have opened for settlement.'² Sittings were held so that the interests of each individual or family could be defined.

The method of the Commission was to ascertain the areas of Maori land in each district, discuss the question of its utilisation with the owners, and present specific proposals for dealing with it. While making ample provision to meet the views of the minority or of individual owners whenever possible, Stout and Ngata were guided by the expressed wishes of the majority so far as they were ascertainable in the open sittings of the Commission. The Commissioners themselves stated that, 'with very few exceptions the recommendations we have...made in our reports were in accordance with the wishes of the Maori owners of the respective blocks.'³

¹ Napier Daily Telegraph, 7 February 1907.

² John A. Williams, Politics of the New Zealand Maori: Protest and Cooperation, 1891-1909, Oxford, 1969, p.128.

³ AJHR 1909, G.-1G, p.3.

A general outline and summary of these proceedings ensues in this chapter, and comprises a study of the mechanics of the Commission, including the where, when, what, and who questions. It illustrates the overall pattern of the sittings, and includes the lands dealt with, and not dealt with by the Commission. Before proceedings could begin however, there were necessary pre-sitting preparations which had to be completed, and these processes are also examined. Following that, the chapter incorporates the sittings and how they were run on a daily basis. The study of the mechanics of the Commission also includes a discussion of the extent of Maori involvement and their enthusiasm towards the Commission. As to their concerns and the issues Maori raised before Stout and Ngata, these come in the following chapter. Following the conclusion of the sittings was the post-hearing process, where the Commissioners were required to draft and re-draft their reports, and if necessary return to some districts for further investigations. Nevertheless, prior to that the Commissioners would settle into the rigours and routines of sittings and hearings for twenty-two months.

It should be noted here that it was entirely up to the Commissioners (subject of course to their terms of reference), to decide which blocks of Maori land they could and would deal with. There was nothing in their instructions requiring the consent of Maori landowners for the Commissioners to investigate Maori land. In practice however, they sought to consult the owners whenever possible, and although the Commissioners had the power to act unilaterally, they seemed to have been most reluctant to use it. As they put it in one of their reports:

'...if the Maori owners do not come before the Commission, and do not offer any land for sale or lease, their lands will, unless the Commissioners recommend that their lands be taken without consent, remain unsettled...'⁴

Nevertheless, right from the start of the Commission's sittings, Stout and Ngata emphasised that Maori must utilise their land - farm it - if they desired to remain in ownership of their land. Stout argued that the only hope for the Maori was to become a farming people, 'idleness' was to be put aside. He warned them against selling their lands and spending the profits recklessly, and instead desired to see how Maori could best utilise their land. The *Native Land Settlement Act 1907* stipulated that of the land not occupied or utilised by Maori themselves, half had to be sold, and the other half leased. As a result of this, both Stout and Ngata were eager to record the names of those Maori who wanted to farm, so that they could have land set aside for them. It seems the Commissioners' desire was to do justice to those Maori prepared to come forward as farmers.

Consequently, the Commission gave the Maori owners full opportunity of being heard and of expressing their objections or consent to those methods of dealing with their lands which had been discussed or suggested by the Commissioners.⁵ It was also hoped that any recommendations made by the Commission would be in accordance with the wishes of the Maori owners of the respective blocks. Skerrett, appointed to represent Maori interests, stated that the 'opinions of Maori owners, loyal subjects of

⁴ AJHR 1908 G. - 1F pp.1-2.

⁵ NZPD 1908, Vol 143, p.14.

the King, should not be given every consideration, but all possible weight, subject to the conditions necessary to secure the ownership of lands against fraud and carelessness'.⁶

The Stout-Ngata Native Land Commission dealt partially or wholly with lands in the following counties:

Manukau; Ohinemuri; Waikato; Thames; Coromandel; and

EAST COAST/ POVERTY BAY	Hawkes Bay Cook Waipua	ROHE POTAE (KING COUNTRY)	Waitomo Awakino Kawhia West Taupo
BAY OF PLENTY	Opotiki Whakatane Rotorua Tauranga	NORTH AUCKLAND	Waitemata Rodney Otamatea Hobson Whangarei Hokianga Bay of Islands Whangaroa Mangonui
WHANGANUI DISTRICT	Wanganui Rangitikei Waitotara Waimarino		

And all of these districts and counties fell within the areas of the following Maori Land Boards:

- | | |
|--------------|---------------------------------|
| - Tokerau | - Waiariki |
| - Waikato | - Maniapoto-Tuwharetoa |
| - Tairāwhiti | - East Coast Native Trust Lands |
| - Ikaroa | |

Time prevented the Commission from making exhaustive inquiries into Featherston, Wairarapa South, Pahiatua, Eketahuna, and Castlepoint Counties. Only some lands in the Waikato were dealt with by the Commission, and lands in Taranaki were not dealt with at all. These areas had a history of their own which stemmed from the confiscations, and were consequently to be dealt with by other legislation than that which empowered the Stout-Ngata Commission.

Furthermore, right from the start Stout and Ngata stated that certain lands were to be expressly excluded from the purview of the Commission. Section 3 of the *Native Land Settlement Act 1907*⁷ defined the scope of the operation of the Act, and stipulated that certain lands were to be excluded from the operation of this legislation. Consequently, because the 1907 Act applied to the operations of the Stout-Ngata Commission, there were certain lands which were not to come under investigation by the Commission. With regards to the lands in the following list, the Stout-Ngata Commission had no power, authority, or legal basis to make recommendations in these areas. These lands included: -

⁶ *New Zealand Herald*, 1 February 1907.

⁷ Section 3, *Native Land Settlement Act 1907*, No. 62., New Zealand Statutes 1907, pp.271-272.

- (a) land situated in the South Island or in Stewart island⁸
- (b) land vested in a Maori Land Board under any other Act; (374,856 acres)
- (c) land which was subject to or administered under any of the following

Acts:

- (i.) The Thermal Springs Districts Act 1881; (approx. 300,000 acres)
- (ii.) The West Coast Settlement Reserves Act 1892; (approx. 193,272)
- (iii.) The Native Townships Act 1895; (3,488 acres)
- (iv.) The Urewera District Native Reserve Act 1896; (approx. 650,000)
- (v.) The Kapiti Island Public Reserve Act; (5,005 acres)
- (vi.) The East Coast Native Trust Lands Act 1902 (approx. 186,388).

Added to this class of land taken out of the Commission's jurisdiction were also: lands held under trust by trustees appointed under the Native Land Laws Amendment Act 1897; private estates such as the Wi Pere Trust; and reserves administered by the Public Trustee. These areas totalled 145,000 acres.

The Commission's terms of reference which referred specifically to Maori lands that were unoccupied or not profitably occupied, took out of the scope of its inquiry lands were under lease or subject to '*bona fide*' negotiations for lease. Stout and Ngata did not interfere with such contracts or negotiations, except to point out in some cases where transactions were contrary to public policy, and, where the parties - as in the case of Waimarama - asked the Commission to intervene so as to recommend a settlement of outstanding difficulties.⁹ Lands fitting this description totalled 2.3 million acres, and there were also 500,000 acres of papatupu land where the title had not been ascertained, which the Commission could not touch.

Therefore, the area of Maori land ruled out of the jurisdiction of the Commission amounted to approximately 4,673,810 acres, leaving the total area available for inquiry by the Commission at only about 2,700,000 acres out of 7,400,000 odd owned by the Maori people. Their inquiries were to be confined to this area.¹⁰ This acreage figure gives some idea of the magnitude of the task which Stout and Ngata were being set. Nevertheless, the work of the Stout-Ngata Commission was to be onerous, and it was recognised by Government that a long and arduous task lay before the Commission.

Before the Commission began its sittings it sought considerable information from official sources. At the early meetings of the Commission, Stout and Ngata had no data before them, and before proceedings could get under way, there were various preparations which had to be completed. Initial proceedings were therefore closed to the public as the Commissioners were occupied with the preliminary functions of gathering information, with a view to ascertaining what blocks in the North Island it would be possible to deal with. As Stout himself said, the actual sitting of the Commission was not the whole of the work that the Commission had to do. In order

⁸ Here now was the directive that the Commission was to deal only with lands in the North Island. As discussed in Chapter Two, the original terms of Reference for the Commission did not exclude the South Island, but it was assumed from the start that the South Island was a separate issue. This part of Section 3 of the *Native Land Settlement Act 1907* clearly provides that the Commission was to investigate the North Island only.

⁹ *AJHR* 1909, G.-1G., p.2.

¹⁰ *New Zealand Times*, 15 October 1909 and *The New Zealand Herald*, 12 October 1908.

to complete their reports, considerable time had to be taken to get information, and to carefully collate it.¹¹ Stout continues:

'I may say that as soon as I received the Commission I applied to the Minister for Native Affairs for certain information as to blocks, areas, and other matters. He has kindly replied to me that he has given instructions to have a map of the North Island prepared...showing the Maori land without title, land held under title, and under various stages of occupation (ie: leased, farmed etc...) [sic] I may also state that I have received letters both from the under-secretary for Native Affairs, and the Minister for Native Affairs, stating that they will be prepared to give every assistance in their power so that the labours of the Commission can be lightened... so as soon as we get the information that will enable us to proceed with the work we intend to go on with it at once...' (The PRESS, 1 February 1907).

Consequently, time was spent by both Stout, Ngata, and all members of the Commission's staff researching information, collecting figures, and investigating points of contention. This side of the Commission's work has been labelled by one historian¹² as their 'stock-taking' role, and involved a wide-ranging collation of data.

Native Minister Carroll also saw the chief role of the Commission as a 'stock-taker'. He believed that the Commission was designed to allow the Native department to be in possession of better information as to the ways in which respective Maori blocks should be dealt with - either by lease, sale, or by vesting in the District Maori Land Boards.¹³ Stout and Ngata therefore conducted a massive 'stock-take' of all Maori land owned in the North Island, except the areas which the Native Land Settlement Act 1907 had excluded from the scope of the Commission's inquiries. The Commission hoped to present the Government with relatively exact figures, and deemed it advisable to show by data comprised in schedules presented in their final reports, the position of Maori lands in each county which they had selected to examine. They thus attempted to set down just how much land was still owned by Maori, how much of this was already being leased, and how it was being maintained and utilised by the Maori owners.

In response to Stout's calls for information, Native Minister Carroll offered to prepare the materials to assist the Commission, and consequently had plans prepared, returns compiled, and other data collected in order to facilitate the Commission's investigations. In preparation for further investigations of the Commission, the Department of Lands was requested by the Native Minister to compile a detailed list of Maori lands in the North Island. Its confidential Return of the Native Lands in the North Island suitable for Settlement was thus produced early in 1907, so that Stout and Ngata could begin properly their investigations of certain Maori-owned blocks. The report covered 956 blocks, encompassing some 4,975,444 acres. The name, area, present utilisation and value per acre of the blocks were detailed, along with other information.¹⁴

¹¹ The Gisborne Times, 22 January 1908.

¹² See Donald M. Loveridge, Maori Land Councils and Maori Land Boards: An Historical Overview, 1900-1952, Prepared for the Waitangi Tribunal, Wellington, September 1996.

¹³ Native Department Reports; Returns; and other Correspondence relating to the working of the Native Department, 1907, National Archives, MA 16 Item #1.

¹⁴ New Zealand, Department of Lands, Return of the Native Lands in the North Island suitable for Settlement (Confidential). Compiled by Direction of the Hon. The Native Minister for the Use of the Native Land

The task of preparing returns which were asked for by the Commission also involved the collecting of information from the records of the Native Department, the Native Land Court who supplied returns, and the various Land Boards from whom the records of dealings they had sanctioned were obtained. Returns were also furnished by the District Land Registrars and Native Land Purchase Office. The Commission's secretary and interpreter gathered information by searching the titles of blocks from the Land Transfer and Deeds Registry Office and the Land Transfer Sectional Indices. They also examined lists and records held in the Native Land Courts and Crown Land Offices. Once much of the data for the schedules had been supplied by the various bodies, it was then checked by Native Land Agents who had local knowledge of the lands in each district.

As Stout was told by an employee of the Native Department, this was an 'arduous task', which took time to complete.¹⁵ Was Stout being asked not to be impatient in waiting for the data he was after?! For their part, Stout and Ngata also found it 'extremely difficult' to compile correct data because of the discrepancies in the many returns they were given, and often found themselves having to rely on the evidence of Maori who came before the Commission during sittings.¹⁶

The Commission built up summaries of land. Initially, the most basic statistics they collated involved splitting the North Island into regions such as the King Country and East Coast, and again dividing those regions into the smaller counties. Within each county the blocks of Maori land were summarised as: those acquired by the Crown; freehold land; Maori land that was leased; land vested in Maori Land Boards, and also blocks recommended by Boards for sale; and land held in Maori occupation.

More specifically, in order to learn something about the blocks they hoped to examine, Stout and Ngata also initially requested information regarding each individual block held in Maori occupation throughout the districts they were to investigate. Before they began their sittings in each county or district, these returns were obtained from information sent by the local Native Land Courts in each district, such as Gisborne, Tauranga, Auckland and Rotorua, and contained details which included: the names of the blocks; their acreages; the certificate of titles to blocks; and the names of owners, and so on. The detailed information they sought highlights the issues the Commissioners wished to focus on, which will be discussed in the next chapter.

Commission, 1907, Wellington, 1907. [Alexander Turnbull Library] Other information included remarks relating to the quality of the land - whether it was broken or not, had good soil, was bush-clad. What the land would be suitable for - farming, milling of gum. It also noted if the block was reserve land, or lease land, and gave the name of the lessee if necessary.

It also appears that approximately half of the lands on the Department's list were already leased, or under negotiation for lease. Stout and Ngata addressed this issue of how much land was already leased before they started their work, in their written reports, and once their investigations were complete. They also presented figures on exactly how much land was already leased. See Chapter Six, pp.250-252 for discussion and detail.

¹⁵ Letter to Chairman of Native Land Commission from Native department, 1 October 1908, Papers relating to the work of the Native Land Commission in the Wairarapa, National Archives, **MA 78 Item #17**.

¹⁶ Memorandum for Hon. James Carroll, Native Minister from Stout and Ngata, Commissioners, 3 March 1908, Papers relating to the work of the Native Land Commission in the Hawkes Bay district, National Archives, **MA 78 Item #14**.

Having spent a good deal of time inspecting maps and returns, and gathering information supplied by the various Land Boards, Land Offices, and the Native Department, the Commissioners finalised a plan of attack for the progression of their duties. Stout and Ngata decided that they would immediately commence investigating the Tutira, Mohaka and Waihua blocks in the Hawkes Bay, these being the only Maori-owned lands in the district of any size, and which appeared to be lying 'unoccupied' and 'under-utilised'. From there, the Commission proposed to move to Wanganui to deal with some of the large 'unoccupied' river lands, and from there to the King Country, where from the data there appeared to be some sizeable blocks to be dealt with. It was hoped by both men, that all urgent blocks in these areas would be investigated before Ngata was called away to attend Parliament and his duties as an MP.

With regards to the sittings themselves, the work of Stout and Ngata thus began in the second week of February 1907 with sittings held in the Hawkes Bay, and continued right through until December 1908. In that time, the Commission travelled to many areas of the North Island and held sittings in approximately forty-five centres. These included:

- Ahipara; Whangaroa; Mangonui; Helensville; Dargaville; and Whangarei in Northland
- Russell; Kawakawa and Kaikohe in the Bay of Islands
- Waima; Kohukohu; Opononi; Pakanae; and Ngarongotea in the Hokianga
- Auckland
- Huntly; Kihikihi; Ngaruawahia; and Waharoa in the Waikato
- Coromandel; Thames; Morrinsville; and Te Aroha
- Te Kuiti; Taumarunui; and Otorohanga in the Rohe Potae/King Country
- Omaio; Torere; Te Kaha; Orote; Raukokore; Opotiki; Whakatane; Ruatoki; Rotorua; and Tauranga in the Bay of Plenty
- Tolaga Bay; Tokomaru; Waipiro Bay; and Waiomatatini in the Poverty Bay District.
- Te Araroa
- Napier; and Masterton
- Wanganui; and Wellington.

[See APPENDIX TWO for a full list of sittings held by Commission, with dates, locations, and a brief summary of main points from sittings.]

Sittings were also held at many of these places on more than one occasion, as it was common for the Commission to re-visit an area once they had made initial recommendations, in order to make revisions. An example of this was in the Rohe Potae/King Country where Stout and Ngata had held sittings in 1907. Wishing to revise and update their early recommendations, the Commissioners re-visited Te Kuiti and Otorohanga in February and March 1908. The Commission also re-visited Napier more than once in its many efforts to try and resolve the Waimarama dispute. It is this hard to pin down the Commission chronologically; their timetable was set some months in advance, but was by no means unchangeable. Moreover, the Commission travelled backwards and forwards between districts, and rarely dealt completely with one area at a time, moving on to the next.

The sittings of the Commission lasted throughout 1907 and 1908, but were frequently interrupted as Stout and Ngata were still expected to continue with their own occupations. During annual Parliamentary sessions, it was not possible for the Commission to hold sittings as often as during the recess, or to devote as much time to the compilation of data. Ngata was required to attend Parliament in his capacity as a Member of the House, whilst Stout was often called away in his role as Chief Justice. When they weren't travelling throughout the North Island and attending sittings, the Commissioners often returned to either Auckland or Wellington, where they took time to assess and analyse the information they had heard and collected, and to compile their reports and recommendations.

The Commission's work was also held up in the first quarter of 1907 as Stout recovered from a serious attack of food-poisoning. Owing to his 'continued indisposition' Stout was unable to resume his Commission duties. Consequently any further sittings of the Land Commission, including those planned in the King Country, were adjourned for several weeks. At this time, Ngata, accompanied by the Commission's lawyer Skerrett and A.L.D. Fraser went to Auckland where the time was spent collating the titles and data, and collecting further information with regard to the land which the Commission had to deal with in the future.

Wherever possible Stout and Ngata also visited the blocks in question, as with Waimarama for example, however not much is mentioned of their actually viewing the land itself; rather it seemed this was left to the Lands department and other people who were contracted by the Commission to explore the blocks. The Commissioners then relied on these reports from others as to the state of the land in question. However, it does appear that Ngata spent more time than Stout touring through the North Island meeting owners and perhaps exploring the blocks of land themselves. Indeed Ngata did much of this during Stout's illness in April 1907.

The Commission was scheduled to appear in certain districts at least six months in advance. However, in order to ensure that Maori owners concerned with particular blocks were given ample fore-warning of Commission sittings, Stout and Ngata suggested that notification of their sittings be regularly published, as in the case of Native Land Court hearings. Consequently, before each of the Commission's sittings or visits, notices were posted in the New Zealand Gazette and Kahiti. These published the exact date and location of the forthcoming sitting, and gave a schedule of the blocks to be enquired into. Thus, those with land interests in the specified districts were given ample notification of hearings, and were invited to attend. It was then up to particular owners and prospective lessees whether or not they chose to be present. An extract from the New Zealand Gazette, 30 July 1908,¹⁷ provides an example of the kind of notices which informed the public of the Commission's prospective sittings:

"Notice is hereby given that sittings of the Native Land Commission will be held at the undermentioned places on the dates specified:-

At the Courthouse, at Te Aroha, on Monday the 24th day of August 1908, at 2pm

¹⁷ New Zealand Gazette, 30 July 1908, Papers relating to the work of the Native Land Commission in the Wairarapa (Miscellaneous letters and telegrams etc...), National Archives, MA 78, Item #17.

At the Supreme Court Buildings, at Wellington, on Saturday the 26th day of September 1908, when the Waitutuma 1A and 1B blocks will be dealt with..."

The names of blocks to be examined were not listed in this example.

At the same time, having asked the Governor for permission to do so, the Commission also published notices in both Maori and English, which prohibited any further action in respect of lands they were to deal with, until such time as the Commission's investigations had been completed and their recommendations tabled in Parliament. In order to deal with the lands thoroughly, to allow surveyors in to properly deal with the land, and specifically to prevent any quick sales of Maori land so as to avoid the Commission's investigations, the Commission issued a Gazette notice within each district, prohibiting the sale of certain blocks of land. These lands also needed to be surveyed and inspected by the Commission in order to establish their suitability for settlement, thus all land sales in the selected areas were halted until Stout and Ngata had completed their investigations.¹⁸ The Commissioners were also aware that many Pakeha were trying to renew current leases, and to make new arrangements with Maori owners for the lease of their lands. Stout and Ngata thus wrote to the Maori Land Boards and asked them not to sanction any new leases of Maori land without conference with the Commission. They feared that if any new leases were granted, the work of the Commission could have been 'much impeded'.¹⁹

Nonetheless, the first official Commission sittings which were open to the public, commenced on Saturday 23 February 1907 at the Napier Courthouse where oral and documentary evidence regarding the Waimarama inquiry was heard and read by the Commissioners. These initial sittings lasted for a week with proceedings being completed on Saturday 2 March, during which both Sir Robert Stout and Apirana Ngata were present. The rest of the Commission's early work in February, March and April 1907 involved attending numerous sittings in, and touring throughout, the Hawkes Bay, Gisborne and Wanganui regions. It was these proceedings which produced the early interim reports used to pen the later 1907 legislation. Following that, sittings throughout the North Island were conducted at various times during the rest of 1907 and 1908.

The sittings themselves were generally held in communal or civic buildings, and ranged from being held on local marae to district halls and in the local courthouse. In the larger places such as Napier and Wanganui, the Commission investigated blocks of land from throughout the entire district. The sittings covered a broad area, and affected Maori from different iwi, hapu, and marae. Proceedings were thus held in a central location such as the district's main town, inside the local hall or courthouse.

¹⁸ An example of one such notice prohibiting any further sales of Maori land appeared in the New Zealand Gazette, 18 June 1908. The following extract was signed by Governor Plunket, and stated: 'On the request of the Commission referred to in Section 10 of the Native Land Settlement Act 1907, and in exercise of the power...Governor...doth hereby prohibit for the period of one year from the date of this Order-in-Council all private alienation of the Native [sic] Land specified in the schedule hereunder written...' The notice then included a list of certain blocks and their approximate acreages. (Papers relating to the work of the Native Land Commission in North Auckland, National Archives, **MA 78 Item #6.**)

¹⁹ Miscellaneous Papers relating to the Stout-Ngata Native Land Commission, National Archives, **MA 78, Item #18.**

Maori who wished to attend the Commission, were then expected to travel to town, away from their marae, and attend the sittings all together. However, in the more isolated regions of the King Country and Bay of Plenty, Stout and Ngata conducted sittings away from the major towns, and tended to deal with blocks of land in one area at a time. In these cases the Commission was hosted by local iwi on their marae.

One of the Commissioners was always present to chair the proceedings, however Stout and Ngata did not always conduct sittings together and would often appear on their own. This occurred, for example, when Stout was ill in the first half of 1907, when Ngata was called back to attend Parliament in the winter months, and also later on in October and November 1908 when Ngata spent a lot of time campaigning for his forthcoming parliamentary elections. Towards the end of the Commission's work, when sittings were only held in order to finalise details which had been collected in previous meetings, Stout and Ngata also conducted a lot of work on their own as it was felt that the presence of both was not necessary. Furthermore, when they were in the midst of writing reports and holding sittings at same time, often Stout would convene the sittings, and Ngata would return to Auckland or Wellington where he compiled and drafted interim reports of the Commission. As Chairman of the Commission and keen to monitor its direction, Stout perhaps felt that it was his duty to attend as many sittings as possible so that he could keep personal control of the proceedings.

Other members of the Commission also travelled the North Island with Stout and Ngata, and accompanied them to hearings. At most sittings Skerrett was present in his capacity as legal representative to the Maori, and his role was to advise and confer with them. So as to minimise confusion, Skerrett ensured that Maori were aware of and up to date with current legislation, and advised them on any queries regarding their land that they may have had.²⁰

Afternoon sittings were frequently adjourned to allow Skerrett time to discuss the relevant issues with the local Maori owners, and he would often then present their case to the Commissioners. For example, Ngata's minutes from the Te Kuiti hearings show that proceedings commenced at 10.00am on the first day, and were adjourned that same day at 2.00pm, to enable Maori owners to consult Skerrett. The following day, Skerrett addressed the Commission, and presented the wishes of the Maori owners to Stout and Ngata. Working through the district block by block, he listed how much land Maori wanted to reserve for their own use, how they wished to utilise the land, and how much they were willing to offer up for lease. At the end of this explanation, Skerrett's statements were then affirmed by the Maori owners present at the sitting.²¹ Perhaps it was felt by Government that Skerrett was more able to put across to the Commission what it was that Maori wanted to say.

However in most cases, those Maori owners attending the sittings chose to speak for themselves and other members of their whanau. In this situation Skerrett simply acted as their advisor, making sure they understood the proceedings and helping Maori to explain their situation to the Commissioners. Skerrett was also often accompanied by

²⁰ For a clear idea of Skerrett's background, see Footnote #23 in Chapter Two, p.43.

²¹ Papers relating to the work of the Native Land Commission in the King Country, National Archives, MA 78, Item #13a.

A.L.D. Fraser. Generally the two men would work together at the same sitting, though one or the other might on occasion assume the role of representative to Maori. As the local MHR for Napier, Fraser seemed to appear mostly in connection with the Hawkes Bay sittings, possibly out of an interest for his parliamentary electorate. Fraser also supplied the Commission with much information, and seemed to keep a close watch on its work.

Outside their roles as legal representatives to the Maori, evidence in the Commission's Minute Books would also suggest that Skerrett and Fraser acted as advisors and confidantes to the Commissioners during the hearings. Stout and Ngata not only conferred with the two lawyers in order to ascertain their position and opinion with regards to the disposition of a certain block, but also used Skerrett and Fraser as a sounding board for some of the Commission's ideas and recommendations.

As the sittings were conducted in both Maori and English, the interpreter W.M. Pitt also played a vital role and accompanied the Commissioners wherever they went. Most of the Maori who attended the hearings spoke in their own language, whilst Stout spoke in English. Thus at sittings which Stout conducted on his own, as was the case in Russell and Whangaroa,²² the interpreter was needed not only to translate proceedings for the local people, but to translate their evidence for Stout. Meanwhile, Ngata chose to speak in whichever language he felt like. When he chaired sittings on his own, Ngata spoke Maori, and when working with Stout, or researching data and information, he spoke English. Furthermore, all of the official minute books were written in English, yet many of the letters and telegrams received by the Commission were written in Maori, and most of them were addressed to Ngata. Presumably Maori trusted him to interpret correctly what it was they desired from the Commission. Ngata often jotted memos and notes to himself in Maori, and also noted evidence, and took some of his own minutes - in Maori.

Finally, the secretary R.W. Hill was the other member of the Commission who accompanied Stout and Ngata throughout their travels. Among other things, it was his duty to: take minutes, organise travel and sittings arrangements for Stout and Ngata, collate data to aid the Commissioners, complete correspondence, and post notices of forthcoming sittings which invited people to attend them. However, it seems that Stout liked to take his own minutes at most of the sittings, thus the role of the secretary was more as a personal organiser to the Commission. In particular, before Stout and Ngata arrived at each destination for their hearings, Hill had prepared a list of lands to be dealt with at that sitting. This enabled the Commissioners to have some idea of what land, what acreages, and how many owners they were to deal with, before Maori arrived at the hearings.

Aside from the members of the Commission, and also the local Maori land-owners who were invited to participate in the public sittings (see discussion of Maori attendance further down), the Commission often requested the presence at hearings of land-valuers, land purchase agents and lawyers to give qualified advice. The skill and expertise of these people was needed by the Commissioners, as noted in the following

²² Minutes of Commission Sittings at Russell and Whangaroa, 20-24 April 1908, Papers relating to the work of the Native Land Commission in the North of Auckland, National Archives, MA 78, Item #6.

letter sent out to all lawyers who had some involvement with Maori lands in the Hawkes Bay:

Native Land Commission
Napier
24 October 1908

Sir,

You are requested to be good enough to attend the Native Land Commission...in the Supreme Court Buildings, Napier... The Commission understands that you have a very good knowledge in respect to a number of leases of Native [sic] lands in the Hawkes Bay District and that *your assistance and knowledge will greatly facilitate the work of the Commission.*

Signed

Chairman, Native Land Commission.²³

The purpose of this seems to be to ensure that the Commissioners not only heard from parties with a personal interest in the land, but that they had access to professional and government opinion in making their recommendations. Stout and Ngata believed that the expertise of such people would greatly benefit the outcome of the Native Land Commission's work, and they possibly valued such evidence as being over and above the personal issues raised by local land-owners. For instance, evidence as to the capital value and leasing value of blocks was called for by Stout and Ngata, and it was usually qualified land-valuers or even Pakeha sheep-farmers, who were each selected to estimate these figures for the Commissioners.

Land Court Judges and Presidents of the Maori Land Boards were also invited to attend some of the hearings, and answer questions from the Commission. Their evidence kept the Commissioners abreast of judicial rulings with regards to Maori land, and their knowledge of Maori land dealings also provided the Commissioners with valuable information. In Wanganui, the evidence of T.W. Fisher, President of the Aotea Maori Land Board was taken at a sitting in March 1907. He provided details on the quality and utilisation of land within his Board's jurisdiction, and suggested possible acreages of land vested in the Board which would be adequate for Maori occupation.

In giving his evidence, he stated that although he did not know much about the Maori in Wanganui, north of Waitotara the practice there was, 'assuming they had a block of 4000 acres, 1000 acres would be sufficient for the Maori, the rest would be put up for public competition for leasing. This 1000 acres, or more if necessary, would be divided among the Maori, practically as a papakainga, and on this they would be debited with rent for the portion they occupied...' ²⁴ Thus, although Fisher may have indicated a reasonable acreage for Maori to occupy, he also suggested that Maori pay rent to live on their own lands just because the blocks were vested in the local Maori Land Board. Furthermore, having been closely involved with the leasing of Maori land through the work of the Maori Land Board, Fisher then gave his opinion on

²³ Papers relating to the work of the Native Land Commission in the Hawkes Bay district, National Archives, MA 78, Item #14. The italics are my own emphasis, and highlight why the Commission invited such people to attend their sittings.

²⁴ Report of evidence T.W. Fisher gave to Stout-Ngata Commission during sittings at Wanganui, The Wanganui Chronicle, 26 March 1907.

arranging suitable leasing agreements, and included ideas on the price of fair rental and the length of lease.²⁵

Hone Heke the MP for Northern Maori, was also a frequent attendant at the Commission's sittings. Indeed, he was very supportive of the Commission and became quite involved with its sittings in North Auckland. He arranged all the sitting dates in the North by seeking approval from local Maori, and then ensuring that they were suitable for Stout and Ngata. The following letter sent to Stout is one such example of his work:²⁶

20 February 1908

Sir,

I have the honour to forward you a list of the dates suitable for your Commission for the North of Auckland, and I have endeavoured to fit them in as close as possible for each place according to the northward run of steamers as well as the return ones...

I hope that the following dates will meet with your approval as I feel sure that it would meet the convenience of all the natives [sic] in and about the places intended by your Commission to visit.

[Signed]

Hone Heke.

Heke also helped a great deal in obtaining data relating to acreage sizes of blocks in North Auckland, and worked tirelessly seeking title ownerships from the Native Land Court so that the Commission always had the necessary data with which to make recommendations on lands in the North.

As to the sittings and the Commission's daily schedule, the Commission usually sat twice daily, and on most days proceedings would generally commence commenced between 9.30am and 10.30am and work throughout the day. There was an adjournment for lunch and the sittings reconvened at 2.00pm for the afternoon session. Occasionally however, sittings would only be conducted for half a day. The length of time the Commission spent in any one place varied between one and five days, and some proceedings lasted for over a week in the same district. This included sittings throughout the King Country and Bay of Plenty where there were many blocks to deal with. Indeed, the King Country was the venue for the lengthiest of the Commission sittings, which lasted for ten days in May and June 1907.²⁷ However, in other districts such as the Coromandel, the sittings were brief, and only lasted for one

²⁵ Ibid.

²⁶ Papers relating to the work of the Native Land Commission in North Auckland, National Archives, MA 78 Item #6.

²⁷ Besides the East Coast and Northland, the King Country was considered by the Government as one of the most important areas needing to be opened up for Pakeha settlement. In the King Country itself, it may be stated that, roughly, there were about three million acres of land within its borders. Of this, about a million and a half acres were owned by Maori in 1907, including the majority of the townships, and lands abutting the railway and main roads. The Crown lands, which had been settled, were for the most part, situated a long distance back from the railway, and access was obtained by travelling over Maori lands which were not rateable. (King Country Chronicle, 11 January 1907.) The Government received many protests from the local Pakeha in the King Country over their failure to own the towns, railways, and roading, and emphasised the need for the Commission to investigate the King Country area thoroughly so as to placate the local Pakeha population.

day. In the Wairarapa, hearings in Masterton were completed in two days and the rest of the work was completed via correspondence.

The amount of land dealt with by the Commission in any given day varied according to the sizes of the blocks in question. On a good day, if all the interested owners were present and registered their concerns, and the land in question was clear of restrictions, the Commissioners could work through up to thirty or forty blocks. However, some of the larger blocks took time to work through, and progress was often slowed by Native Land Court restrictions and title difficulties. Furthermore, the majority of Maori owners had to consent to the selected mode of disposition for their lands put before the Commission. Such consent was often not forthcoming due to tribal disputes, the failure of some owners to attend Commission sittings, or simply the failure of some to record their wishes. Consequently, Stout and Ngata often found their work hampered, and progress in some areas could be difficult.

Proceedings consisted chiefly of hearing evidence, and began with Skerrett and the Commissioners giving a full rundown of the blocks they would be examining in that particular district. The Maori then generally met in conference with Skerrett (or Fraser who helped the Hawkes Bay Maori) and arranged the order in which blocks were to be taken. Skerrett also ensured that Maori were up to date legally, and advised them on any queries re their land that they may have had.

The Commission having opened, the first block was then called on, and in some cases only one block was to be dealt whilst in other five or more blocks were to be examined. Throughout the day, representative Maori owners then stood up one at a time, and proceeded to supply particulars of their present occupation, the area, position of its title, improvements made to the land and numbers of stock. They also stated what portion the owners desired to reserve for their occupation and for kaingas, and what, if any, for general settlement.

Sometimes the land was required to be incorporated under a communal ownership to facilitate its utilisation, and if the block was to be leased, the terms were specified and the lessees named. Sometimes other Maori owners objected, their objections were stated, and if reasonable the case was usually adjourned until after lunch, so that the parties might meet and come to an arrangement. Only in one instance was this found unworkable, and it was then up to Stout and Ngata to come down in favour of either side according to what they thought was the best option. Other lands were found to be 'hung up' waiting for the claimant owners to be investigated by the Native Land Court. Particulars of these areas and probable disposal were taken and the block was placed on Stout and Ngata's 'to be investigated' list.

At the end of each day, proceedings were adjourned until the following day. However, if all the evidence had been heard and the investigations were complete, sittings in that particular location were finished, and the Commission moved on.

At all the public sittings both Stout and Ngata would address the whole hearing and explain to all present the mission and scope of the Commission's proposed work. More often than not they would then; pass comment on the evidence heard and the feasibility of Maori suggestions for their land, offer advice to Maori on farming skills and financial management, and adjudicate when asked in hapu or whanau disputes.

For example in Opotiki, Ngata began by explaining the objectives of the Commission to the people of the Whakatohea²⁸, and in Wanganui, the Commissioners insisted to Maori present at the hearing, that to take up farming and industrial life was absolutely necessary if the Maori and the ownership of their lands were to survive.

The programme of the Commission's sittings was remarkably similar in that the aim of each hearing was to record from Maori owners evidence about their intentions for the future disposition of their land - nevertheless proceedings did vary somewhat. Stout and Ngata spent most of their time convening large, public sittings at which numerous Maori attended, however alternatively the Commissioners also held hearings where the public were not present. These meetings involved fewer people, and usually only included Stout and Ngata, lawyers other than Skerrett who were representing the interested parties, and occasionally one paramount owner/leader such as Te Heuheu Tukino.

In these cases one particular block, or a specific agreement were being dealt with, such as the Commission investigation into a timber/railway agreement which had been signed by Tuwharetoa and a Pakeha milling company. At these smaller hearings, the Commissioners were generally required to comment and advise upon the problem at hand, or give verification to the particular agreement. The agenda for such meetings tended to follow the path of those leading the discussion. Another example of the private meetings were those held at the Napier Courthouse between Miss Meinertzhagen, Airini Donnelly, and their respective lawyers, where Stout and Ngata attempted to resolve the dispute over the Waimarama Block 3A lease.

Outside the ordinary programme of sittings, the Commissioners also convened private research days so as they could examine various data and information which they had collected, including examining plans and documents which were connected with certain Maori blocks of lands. These private sittings were designed to allow the Commissioners to investigate land, besides hearing evidence from the Maori owners as to their views of its subsequent disposition.

With regard to the Ngati Whatua's Orakei lands, this was the only such case where there were no meeting or sittings held at all. The Commission had been personally requested by Hone Heke to inquire into the position of the Orakei Native Reserve, aside from the other districts they intended to investigate.²⁹ Stout and Ngata hoped to be able to spare a few days to conduct a sitting in Auckland with respect to Orakei. However, they obviously ran out of time, or perhaps decided that to hold a sitting was unnecessary. Instead, in order to establish the legality of the leases which had resulted from the Native Land Court's illegal partitioning of Orakei Reserves, and report on their validity, the Commission obtained the essential information by studying the *Orakei Native Reserves Act 1882*, and the *Native Land Court Act 1894*. To make their recommendations, Stout and Ngata also called for written objections from interested Maori, and conducted their own research into past legislation, rather than convene official sittings.

²⁸ Minute Book of Evidence by A.T. Ngata, 15 January 1908 - 16 March 1908, National Archives, MA 78 Item #4.

²⁹ Letter from the Commissioners to the under-secretary for the Native Department, 15 May 1908, Papers relating to the work of the Native Land Commission in the Waikato, National Archives, MA 78 Item #8

However, one common feature of all the Commission's work, whether it was convening large public sittings, attending small private hearings, or conducting research, was that wherever the title permitted and wherever the owners had been present at sittings or had written to the Commissioners, Stout and Ngata were able to establish in one way or another the state of the lands in question. Thus decisions on the lands' future disposition could be made and later communicated to the owners through the Commission's reports.

At the larger public sittings, the Commission's agenda tended always to adopt the same pattern, whether both Stout and Ngata were present or not. According to the Poverty Bay Herald, the work of the Commission went about in a 'quiet, practical way', as Stout and Ngata endeavoured to investigate what lands the Maori owned, how much land they could farm for themselves, and how much could be declared surplus land for general settlement purposes via lease or sale.³⁰ At all the sittings held by the Commission, Stout and Ngata told the Maori owners that they would not be compelled to sell any of the lands left to them, but that they would be permitted to lease their lands not required for immediate use. The information from Maori obtained by the Commission, was thus based on this understanding.

At each of the sittings, but more particularly in the districts north of Auckland, the Maori owners of the various blocks attended in large numbers, and were given by the Commission an opportunity of stating their wishes with regard to the disposition and settlement of their lands.³¹ On average, twenty people a day were seen by the Commissioners, who moved through the submissions quickly. Nevertheless, often 70-100 Maori would appear at the sittings to give evidence, and their welcomes to the Commissioners were always heartfelt and friendly.

At Waioamatatini on the East Coast, over one hundred Maori attended the opening day of Commission sittings, and in the Coromandel, a 'considerable number' of Maori owners were present at proceedings.³² Whilst, some one hundred owners attended the Commission's sittings at Mohaka on 6 and 7 March, when the Commissioners investigated the Mohaka and Wharehaurakau blocks. However, at some of the more private meetings which were closed to the general public, numbers attending the sittings were kept small, and usually only included the Commissioners, one representative of the iwi in question, and accompanying lawyers.

Of the Maori who attended sittings, most of them owned land in the local district, or were successors to previous title-holders. These people were also joined by other iwi members, and those who came to speak to the Commission on behalf of owners who could not be present or lived in another region. Sons attended proceedings to represent their fathers and whanau, and husbands represented their wives and children. The following examples of some who appeared at the Commission's sittings were noted in the minutes relating to North Auckland:

Rawiri Ruru: "I represent 505 shares and 48 owners..."

Hemi Taurewa: "My brother owned land but is dead. We are his successors..."

³⁰ The Poverty Bay Herald, 13 December 1907.

³¹ Waikato Argus, 17 September 1908, p.3.

³² The Poverty Bay Herald, 10 December 1907. See also Minute Books of the Commission's Sittings, National Archives, MA 78, Items #1-5.

Unidentified: "I speak for Ihapera Kaipo and others of the owners..."

Unidentified: "I speak in regard to the interest of my tupuna..."³³

Furthermore, of those present at the hearings many were from the same hapu or whanau. For example, Maori who attended the Whangarei sittings were chiefly members of the Nehua hapu.³⁴ A few women also turned up at the sittings in Northland, the Bay of Plenty, the Thermal Districts, Tokomaru on the East Coast, and with regards to the Waimarama block in the Hawkes Bay³⁵, and gave evidence with regards to their own shares in the land.

However, due to the distances many Maori owners had to travel to attend sittings, some chose to stay away and instead wrote to the Commissioners expressing their wishes for the future of their land via post. Others, such as the elderly or incapacitated, chose to send proxies in their place to meet Stout and Ngata. These persons/proxies relayed the wishes of owners who could not attend the sittings, and ensured that the concerns and wishes of many owners were conveyed to the Commission, whether they were present at proceedings or not.

One such example emerged in the Wairarapa, where an owner whose wife held the largest share in a 1200 acre block, was sick in hospital and unable to attend the forthcoming sitting. Instead he sent a proxy to the meeting, in order that his 'very important evidence be heard.'³⁶ Another example from a sitting at Russell, was the proxy who spoke 'on behalf of Wiremu Rikihana and his family, owners in Waiwhatawhata [Block] 3B...'³⁷

Thus, the Commission seemed to be quite successful in drawing Maori to the sittings, and obtaining Maori co-operation. In the Minute Books of the Commission, there is nothing to suggest that Maori boycotted the presence of the Commission in their area, and generally the sittings were well attended by Maori owners, and those with an interest in the respective blocks. Such participation by Maori would seem to highlight the overall approval that with which Maori viewed the Commission.³⁸

Stout and Ngata were mostly warmly welcomed by the locals. An example given in the Poverty Bay Herald describes one such occasion of Maori-Commission interaction:

'Prior to the ordinary business [of the Commission] being undertaken there was the customary korero. Over one hundred Maori, representative of the people from Tokomaru to Waiapu, filled the big carved runanga house. The speakers

³³ Minutes of Evidence, Papers relating to the Native Land Commission in North Auckland, National Archives, MA 78, Item #6.

³⁴ AJHR 1908, G.-1J., pp.1-3.

³⁵ See discussion of the Waimarama dispute in the following chapter, and the involvement the formidable Airini Donnelly played in securing the future disposition of 'her' lands at Waimarama.

Interestingly enough, where the Commission spent most of its time hearing from males, and males on behalf of women, at Waimarama the dispute was waged between two women - Donnelly and a Gertrude Meinertzhagen.

³⁶ Letter to the Commission, from H. Parata, 24 September 1908 in Papers relating to the Native Land Commission in the Wairarapa, National Archives, MA78, Item #17.

³⁷ Minutes of Evidence, Papers relating to the Native Land Commission in North Auckland, National Archives, MA 78, Item #6.

³⁸ For more on the Maori attitude towards the Commission, see later section of this chapter.

were Pene Hehei, Niho Kopuka, Hakarara Mauhini, Pene Tuhaka, Henare Mahuka, and Apirana Ngata, MP.

"Welcome, welcome, Sir Robert Stout...Welcome to Waiapu under the authority that has been given to you by the Government to investigate the lands of the Maori...We welcome you who has arrived among us, the tribe known as Ngati Porou. Come and explain your matters to us."

(The Poverty Bay Herald, '10 December 1907.)

Looking at such an example most people would believe that the Maori attitude to the Commission was a positive one, and that they appeared willing to co-operate. Indeed of the large numbers of Maori who attended sittings, most of them readily brought their blocks before Stout and Ngata, and handed them over to the Commission to be dealt with. This was the case for the Ngati Porou, who although had many witnessed years of detrimental Government legislation, which had destroyed much of their lands, welcomed this new idea, this new government method of dealing with their lands.

Although many Maori did not fully understand the Commission's terms of reference, local Maori from Waiapu in the East Coast, considered it a pleasure to have the Commission point out to them the best way to farm their lands to its greatest potential, and to show them the way to go ahead and keep pace with the Pakeha. They also believed that the Commission would allow them an opportunity to explain their difficulties to the Crown, and in the words of one Ngati Porou elder, saw it as the 'bringer of medicine to the Ngati Porou.'³⁹

Upon being asked what the feeling of the Maori was in regard to the work of the Commission, Stout replied that the Maori owners 'seem to be very friendly indeed and appear very anxious to have someone to settle the matter for them, and get it ended. There had been no sign of unfriendliness manifested and they seem very kindly disposed all through. Wherever we have met the [Maori] they seem desirous of meeting the Commission and they are very fair and reasonable. That has been our experience with the people at Mohaka, Nuhaka, Wairoa, and the Hawkes Bay.'⁴⁰

Overall, it can be said, that the majority of Maori thus welcomed the presence of Stout and Ngata in their district, however there were particular districts, and in places, particular groups of people, who were anything but supportive of the Commission. In the Waikato, the people there still held the memory of raupatu fresh in their minds, and were somewhat bitter towards the Crown and its agents. Consequently, many Waikato Maori observed the Commission with suspicion and distrust.⁴¹ Stout and Ngata also struck the odd difficulty with particular iwi who appeared uninterested in the work of the Commission (or were perhaps boycotting it), and had no desire to attend any sittings.⁴²

³⁹ The Poverty Bay Herald, 10 December 1907.

⁴⁰ Napier Daily Telegraph, 14 March 1907

⁴¹ This will be elaborated upon in the King Country-Waikato case study, See Chapter Five.

⁴² For example, in the case of the 60,000 acre Rangitoto Tuhua block, only one owner chose to appear before the Commission as the others were not bothered. As a result, on his initiative, the whole block was placed under the jurisdiction of the Commission. Stout and Ngata were thus left to deal with this large chunk of land, guided by the wishes of only one person and ignoring those of numerous other owners who seemed to care little for the work of the Commission.

However, this lack of interest on the part of some Maori owners was perhaps a sign that many of them did not in fact understand the Commission's terms of reference and the nature of its work, or fully comprehend the scope of the Commission's powers and why it was investigating land in their district? It is understandable that Maori may have been confused, as many Commissions, such as the Urewera Commission, had already investigated Maori land throughout the North Island. Had Maori thus been faced with numerous Commissions, and now no longer knew exactly what was going on, and who was dealing with what? Did Maori fully understand the Stout-Ngata Commission and its terms of reference? There is in fact no evidence to support such a statement, rather most Maori seemed aware of what Stout and Ngata had set out to achieve. They understood their rights and options with regards to the Commission, and those who chose not to attend the sittings and have their lands dealt with by the Commissioners did so knowingly.

Nevertheless, Stout and Ngata made every effort to explain themselves and the work of the Commission to the local Maori in each area, and were very careful to ensure that Maori understood the needs of the country and the pressure that Pakeha settlers were putting on the Government. Furthermore, the Commissioners also asked Native Minister Carroll that their reports be translated into Maori as soon as possible so that the reports could be circulated throughout the Maori districts in order that the scope and purposes of the Commission be made known as widely as possible among Maori. Both Stout and Ngata felt that if their work could be read and understood by Maori, then perhaps they would be more willing to co-operate, and more able to help the Commission make further recommendations.

And so, although some Maori had reservations or were openly suspicious of the Liberal Government and their plans for Maori land, Maori seemed willing to accept the wisdom of Stout and Ngata, and the Commission quickly came to be seen as fulfilling a mediating role between the Pakeha government and the Maori people. Maori similarly showed a ready acceptance of the Commission and were disposed to use it to their advantage.

The following opinion of prominent Maori Wi Pere, with regards to the Commission, seems to nicely sum up the overall Maori attitude to the Commission:

'...the Royal Commission, which visits each tribes in its hapu, and there meets the Maori, and inquires from them what they want done with their land, and ascertains who are the owners. The Maori have only to tell the Commission what they want done with any particular part of the block - what portion they would like reserved for themselves for farm...purposes, what part they would like to have leased to their own children, and what part to be leased or sold to the pakeha. I think that this is broad-daylight law-making. Nothing could be fairer. There the Commission enters the kainga and meets the people, and the people know what the Commission are there for, and it remains for them to point out exactly what they want done. It is not at all necessary for the Royal Commission to go upon the land and classify the land quality. That is not needed, because the owners of the land are well acquainted with the character and nature of each block, and all they have to do is to put the plan before the Royal Commission and mark out on it the particular parts that I have already described.'⁴³

⁴³ NZPD 1907, Vol 142, p.1149.

In the case of Pakeha settlers and farmers, their numbers were considerably smaller at the hearings, and those who turned up, usually did so in their capacity as advisors to the Commissioners, or lawyers for Maori. It seems that most Pakeha stayed away from the Commission sittings, and those who had an interest in the land being dealt with tended to communicate with the Commissioners by means of correspondence, or by sending their lawyers into private arranged meetings with Stout and Ngata. However, some Pakeha lawyers did attend the sittings primarily on behalf of their Maori clients. Their role was either to accompany Maori to the hearings, or in some cases they presented the owner's case to the Commission. Much of the correspondence which the Commission received from owners outside of the sittings was also written by the lawyers for their clients.

Nevertheless, other than their roles as lawyers and advisors, Pakeha attendance at sittings, besides from Stout and the Commission secretary and interpreter, was minimal. Pakeha seemed to believe that they had no major role to play with regards to the Commission, rather they felt that this time it was the job of the Commissioners, and the representations of Maori owners to provide suggestions for the opening up of land for Pakeha. Although the Government did receive many protests from the local Pakeha in the King Country over their failure to own the towns, railways, and roading, who emphasised the need for the Commission to investigate the King Country area thoroughly so as to placate the local Pakeha population.

As to their attitude, the Commission's presence in the district seemed to be warmly received by Pakeha, although there is little evidence either way. Pakeha initially saw the Commission as a body which would open up for settlement the 'large and valuable areas' which Pakeha believed had lain unoccupied and uncultivated for years. The editor of the Napier Daily Telegraph noted that the Commission was a 'forward movement in the matter of dealing with unoccupied Maori lands...and commended itself to all sensible peoples throughout the district.'⁴⁴ (However, Pakeha attitudes did change once Commission's reports were released, and it became clear that Commission was perhaps not going to be the agent to open up acres of Maori land for Pakeha settlement. Many Pakeha responses to these reports were angry and disappointed.)

Following the conclusion of the sittings in each district, came the post-hearing process, where the Commissioners were then required to draft and re-draft their reports, and if necessary return to some areas for further investigations. As the Commissioners neared the end of their appointed time, they were frequently called back to certain districts to iron out any final problems, and to review and reconsider earlier recommendations which they had made with regards to certain blocks of land. In November and December 1908 alone, amended reports on lands in the Waikato, Hawkes Bay, Wanganui, and Wairoa were prepared by the Commission for re-presentation to the Governor. Stout and Ngata often received letters from both Maori and Pakeha expressing dissatisfaction with their early interim reports, and requesting that alterations be made to their initial recommendations. Further sittings were thus

⁴⁴ Napier Daily Telegraph, 4 March 1907.

generally deemed necessary, and Stout and Ngata would re-visit an area in order to reconsider their findings.⁴⁵

In the ways described, the Commission proceeded section by section, block by block, and district by district throughout the North Island. After full investigation, guided more or less by the wish of the Maori as Commissioners had heard in their sittings and via correspondence, and after taking into consideration the general position of the district through the examination of data, the Commission would consider its recommendations and report to the Governor. Aside from the Commissioners' recommendations, these reports also included schedules and figures which dealt with their recommendations in terms of acreages, proposed leases and sales, and specific blocks recommended for Maori occupation. However, as the Commissioners neared the end of their appointed time, they were frequently called back to certain districts to iron out any final problems, and to review and reconsider earlier recommendations which they had made with regards to certain blocks of land. The final reports of the Commission as printed in the Appendices to the Journals of the House of Representatives (AJHRs), were the result of months of sittings, re-visits and written drafts worked on by the Commissioners.

Thus, throughout 1907 and 1908, the official sittings of the Stout-Ngata Native Land Commission took place. Accompanied by lawyers, an interpreter, and a secretary, Stout and Ngata spent that time travelling to many of the North Island's small and isolated districts and also into its towns. In each place they met many of the Maori owners of lands which had been highlighted by the Crown as being idle and unproductive. Unlike any previous government commission, Stout and Ngata spent time on local marae and in community halls, and invited Maori to come and speak and air their views. The processes of the Commission guaranteed Maori a fair hearing by the Commissioners, whose chief desires were to promote Maori farming and the 'productive settlement' of their own land. Consequently, more so than ever before Maori were willing to let Stout and Ngata recommend how their land should be put to use in the future, and were even willing to listen to suggestions that some of the land be thrown open for lease and public settlement. The Commission was warmly welcomed by Maori, who perhaps saw it as a vehicle for their own advancement. After decades of harsh land legislation, most Maori had grown to deeply mistrust any government initiatives with regards to the future disposition of their lands, and it is interesting to note, that for the first time Maori seemed to trust this particular government commission, and were willing in fact to co-operate and participate.

⁴⁵ For example, with regards to a block in Nuhaka, one Maori owner was particularly distressed with one of the Commission's reports which appeared to contradict what the Commissioners had promised during their earlier sittings. The author of the letter, James Wilson, brought to the attention of Stout and Ngata that they had promised the lease of block Nuhaka 2B 2A to three particular Maori as he had requested, yet in their interim report the land was referred to be leased to the 'highest bidder'. Concerned that the land was going to be lost to an anonymous Pakeha bidder, the author on behalf of his people wished to change his initial decision, and desired that the block be reserved for incorporation. Consequently, Ngata returned to the Nuhaka area for another meeting, and discovered that all the local people were in agreement that the land be leased to the people originally named at the first sittings. Thus, the interim recommendation of the Commission with regards to this Nuhaka block was amended, and the matter tidied up.⁴⁵ Nevertheless, the Commissioners' interim recommendation was amended, and this responsiveness from Stout and Ngata must have been gratifying to Maori. They would have felt their faith in the Commission justified, as this reaction proved that attention was paid to the expressed wishes of the Maori landowners in the Commission's recommendations.

The sittings themselves provide an interesting insight into the interaction between the desires of government and Maori, and also the influences exerted by Stout and Ngata. Various themes have emerged from the two years of Commission sittings, and the following chapter will set out to analyse some of these.

CHAPTER FOUR - Land Issues at the Commission Hearings

The Stout-Ngata Commission, as has already been noted, was not just another method of collating data and gathering statistics with regards to acreages of land still under Maori ownership and control; it was also a forum to which Maori were invited to speak and air their concerns and proposals as to the future disposition of their lands. This next chapter sets out to analyse the issues which concerned the Commissioners, and some of the major themes which emerged from Commission sittings, focusing primarily on the interaction between the Commissioners and Maori land-owners, and the evidence that was given by Maori.

Much time was spent hearing evidence from Maori, whereby the Commission heard from the owners of each block in question, who would simply give a brief statement as to what they wanted done with their lands. Little discussion occurred between themselves and the Commissioners, although Maori did use the sittings as a chance to vocalise their concerns. Primarily Maori were concerned with maintaining control of their lands, and strongly objected to any further sales of lands they had left. However, many understood that Pakeha settlers were hungry for land, and were prepared to offer up their surplus lands for lease. Nevertheless, Maori were also extremely eager to be given a chance to farm and utilise their lands before being forced to lease it to Pakeha. Many came before the Commission with evidence of attempts at farming, and hoped that Stout and Ngata would see their way to helping Maori in their endeavours. Naturally there were those who viewed the Commission with distrust and thus either refused to bring their land before it, or demanded that all their lands be kept solely for Maori occupation.

The response of Stout and Ngata to the concerns and wishes aired by Maori was more positive for Maori than any previous government commissions had been. Although Stout had a deep-seated belief that land should not be allowed to lie 'idle', and Ngata was constrained by his role in a British-style parliamentary system, both Commissioners listened intently to the people they met, and endeavoured to incorporate Maori wishes in any recommendations they made. Most important was the desire Stout and Ngata voiced throughout their sittings that Maori should farm their lands themselves, and utilise them 'profitably'. 'Use it or lose it,' was the Commissioners' common cry. Both men wanted to see Maori remain on their own land, and frequently highlighted and publicised the need for government-sponsored finance and education programmes that would give Maori the necessary skills and capital to successfully work their lands.

LAND ISSUES RAISED BY THE COMMISSION

As was mentioned in Chapter Three, the Commissioners had to gather a great deal of information outside the sittings to assist them with their investigations; much of this work was done before the sittings began, some was done later. The nature of the research conducted by the Commissioners highlights the issues that Stout and Ngata can be seen to have been interested in.

In seeking information from the district Land Court offices about individual blocks, for instance, the Commissioners sought the following data:

- names of all Maori blocks; the acreage; and each subdivision thereof;

[the Commission was particularly interested in the moderate to large sized blocks of Maori land, because obviously they started with these blocks in the hope that after Maori had claimed the land they needed there would still be plenty of surplus land for settlement from such large blocks]

- the date when the title and memorial of ownership was adjudicated;

[the Commission enlisted the help of the Native Land Court in dealing with titles and successions, in order to establish that the land was legally titled and free to be dealt with by the Commission, and perhaps offered for lease]

- number of owners on the title, and names of hapu members with interests in the land;

[in an interesting example, and the only one of its kind from the records examined, the Commissioners were given a list of eighteen names of those who held an interest in the Motatau No. 3 block in North Auckland. Ngata himself then drew the whakapapa for these people in order to establish their ancestral relationship to the Motatau block¹]

- how the land was being occupied at the time by Maori owners - was it being farmed or milled, was it incorporated or under negotiation for lease, or was it lying 'idle';
- whether or not improvements had been made to the land, and if it was stocked; and
- quality of the land, which ranged from good pastoral land to poor sand country suitable for growing trees only. Descriptions of land quality also included whether the blocks had been cleared or remained bush-clad or swamp lands.
- What reserves were made for Maori as papakainga?

The collection of this information base was an attempt to establish how much land Maori had to sustain themselves on and what they were doing with the land to provide an income, how much had already been sold or leased, and how much was theoretically lying 'idle' and therefore would be deemed as surplus to Maori requirements. These statistics provided a starting point for establishing exactly what land was around, and which blocks the Commissioners could encourage the owners to offer up for Pakeha settlement. Information regarding the quality of the land was necessary for two reasons. Firstly to make sure that Maori would not be left trying to survive on land which would produce very little. Secondly and more importantly for the Government, that the land deemed surplus was good quality pastoral country 'suitable' for the farming requirements of Pakeha settlers.

¹ Miscellaneous notes, Papers relating to the work of the Native Land Commission in North Auckland, National Archives, MA 78 Item #6.

Cases where numerous owners were titled to one block, would have necessitated that the Commissioners ensured that the owners also had sufficient land elsewhere on which to support their whanau. Consequently, the Commissioners used data from past censuses to establish the Maori population in each county, so that they could gauge how many people depended on the land, and how much land was needed to be reserved in order to sustain the Maori population.

For example, the schedules showed that the area of Maori lands in the Whangaroa County was 34,958 acres. Using the census, Stout and Ngata then discovered that 743 Maori lived in that county, and by simple mathematic equation established that this only left an average of forty-five acres for each person. 'This is really too small an area for Maori to be expected to make a living off the land by farming', commented the Commissioners. Furthermore, the schedules also showed that Pakeha in the area possessed an average of eighty acres each. Thus before the sittings had begun, the Commission had concluded that in the Whangaroa County, the area used by Pakeha farmers was far greater per head than the area left to the Maori for farming purposes.² Such conclusions ran completely contrary to what the Government had people believe, and in this example, it could be argued that the Commission should have been looking to Pakeha to offer up their surplus land for Maori settlement! Nevertheless, early discoveries like this were quietly brushed over, and the Commission's work continued, closely monitored by a Government desperate for more land for Pakeha settlers.

Further Confidential returns were supplied to the Commission by the Lands and Survey Department which showed how some of the Maori blocks had been subdivided; either into papakainga, Maori reserves, land to be grazed by Maori-owned stock, or occupied by Pakeha. Stout and Ngata also wished to know in the case of these lands whether any subdivisions were subject to an appeal, to some adjustment perhaps required by legislation, or to an Order-in-Council removing restrictions.

The Commission also requested to be furnished with returns relating to the area of Maori land which had not been investigated, and therefore to which the title had not been ascertained or individualised - papatipu land. Furthermore, once sittings had begun, the Commissioners prepared a schedule of blocks of land which urgently required to be partitioned and determined by the Native Land Court to enable the Commissioners to complete their recommendations.

Finally, as the Commission's terms of reference fundamentally regarded the leasing of lands, one of the Commission priorities was gathering information related to those lands already under lease. Some of the details asked for by Stout and Ngata included the official figures on lands leased to Pakeha, and included:

- what areas [in the specific county] have been leased, what was the annual rental?
- which blocks were under Pakeha occupation through lease
- who the Pakeha lessees were, and their names

² AJHR 1908, G.-1J.

Returns were also supplied to the Commission which showed the blocks in Pakeha occupation, and whether they were freehold, or held under registered or unregistered leases. The Commissioners wanted lists of all the blocks already under lease to Pakeha, and wanted details which showed that such leases had either been confirmed by the Native Land Court, or approved by the District Maori Land Board. This was an important statistic for the Commission to establish; after all the Government's purpose in establishing the Commission was to ensure that plenty of land be made available for leasing to Pakeha. The Crown had claimed that very little Maori land was currently under lease to Pakeha, and the results from this data collected by the Commission would have established exactly whether or not that claim was well founded. Indeed the results would have been most interesting, and if proved false, would have seemingly cast a shadow over the entire purpose of the Commission. However, although the Commissioners had established how much Maori land had already been leased prior to the sittings, they chose to continue with their work and this data was not made available to the public until after it was published in the Commission's reports, and they had written their recommendations.³

As to the collation of information regarding leased lands, data for this stock-take was primarily supplied by the various District Maori Land Boards. For example, in the case of the East Coast counties - Waiapu, Cook, Opotiki, and Whakatane - the Waiariki Maori Land Board returned a memorandum to the Commission which included the undermentioned returns asked for by Commissioners: ⁴

- leases consented to by the Board [Waiariki District Maori Land Board];
- applications for consent to proposed leases not yet disposed of;
- recommendations for removal of restrictions; and
- lands vested in the Board for the purposes of administration.

This was not an unusual procedure, and it was common to find 'schedules of blocks vested in Land Boards for administration', and also 'returns of leases which had been consented to by those same Boards' sent to the Commission by various District Maori Land Boards.⁵ The Commissioners generally approached the Maori Land Boards first, in order to obtain available figures with regards to Maori land in the Boards' districts. These Boards were considered by the Commission to be the primary source of information because of their involvement in the administration of Maori land. Data was returned to the Commission as figures only, with no attached comments from the various Land Boards as to its significance. Replies from the Board gave no insight as to the current situation with regards to Maori land, and included no ideas on the

³ These figures were collected as part of the information gathering and data preparations which the Commissioners completed prior to their sittings, as discussed in Chapter Three. However, the Government still wanted the Commission to produce recommendations as to how much (more) Maori land could be opened up for Pakeha settlement. Because of the politics involved, Stout and Ngata chose to continue with their work regardless of the figures they had gathered which showed how much Maori land was already leased. The figures were presented in their reports. See pp.250-252 of Chapter Six which discusses how much Maori land was already under lease to Pakeha as of 1907, and gives the statistics.

⁴ Memorandum, Waiariki District Maori Land Board to Secretary Native Land Commission, 11 January 1908, Papers relating to the work of the Native Land Commission in the Thermal Districts, National Archives, MA 78 Item #12.

⁵ From the records, such schedules were received from the Waiariki, Tairāwhiti, Maniapoto-Tūwharetoa, and the Tokerau District Maori Land Boards.

future disposition of Maori land. Nobody it seemed was willing, or could be bothered to 'put their neck out' and provide an opinion for the Commission to consider. It was very much a statistic-gathering exercise.

The Commission was primarily concerned with the situation facing Maori leased lands, for they hoped to promote this system as a way of opening up more Maori land for Pakeha settlement. With regards to leasing, District Maori Land Boards were possibly the most in touch with the concept. Thus, as well as assembling figures, Stout and Ngata also took evidence from the presidents and secretaries of such boards, who not only elaborated on the procedures of leasing agreements and rentals for the benefit of the Commissioners, but supplied acreages of Maori lands already leased and how much was available to be leased.

For example, at the November 1907 sitting held in Gisborne, Colonel Thomas William Porter, President of the Tairāwhiti Maori Land Board,⁶ gave evidence to the Commission relating to Maori land vested in the Board, and the situation with regards to leasing. Col. Porter stated that the total number of blocks vested in the Tairāwhiti Maori Land Board was seventeen with a total area of 52,255 acres. Of this amount, thirteen blocks with an area of 3,239 acres had been leased, and of the remainder, twenty blocks were ready for leasing. The majority of the land leased under the Board had been disposed of by public tender, rather than auction. Porter concluded his brief session before the Commission by asserting that so far both Maori and Pakeha had been satisfied with such actions of the Tairāwhiti Board, and there had been no complaints regarding its leasing methods.⁷

Col. Porter also supplied the Commission with a 'Return of Native Lands leased, and leases consented to by the Tairāwhiti District Maori Land Board in the period December 1906 - November 1907'.⁸ Data in the schedule included:

- name of person to whom land leased, with their address
- area of land in acres, with description of the block - was it pastoral country, good for growing timber, bush-clad?
- term of the lease, [most of the Tairāwhiti Board's land was leased for twenty-one years]
- annual rent

⁶ Colonel Thomas William Rose Porter was born in India, the son of a British army parents. In 1860-63 he was attached to the 70th Regiment in New Zealand, and from 1863-66 was with the Colonial Defence Force cavalry commanding native forces. He commanded the blockhouse at Mohaka, and 'distinguished himself at Waerenga-a-hika in assisting the wounded.' When the Colonial forces were disbanded he served with the Armed Constabulary. In 1868, on the escape of Te Kooti, he served throughout the East Coast campaign. He was later appointed staff adjutant of the East Coast militia district and Native Land Purchase Officer. He was four times mayor of Gisborne, and also published a life of Major Ropata Wahawaha in 1897. (G.H. Scholefield, ed, A Dictionary of New Zealand Biography, Vol II, M-Z, Wellington, 1940, p.179.) Porter was thus a veteran of the wars against the Crown, and this tells us something about the sort of people who held positions on the Maori Land Boards.

⁷ Daily report on the evidence heard at the Stout-Ngata Commission from the Gisborne Times, 3 December 1907.

⁸ Copy of 'Return of Native Lands leased, and leases consented to by the Tairāwhiti District Maori Land Board, 31 December 1906; 31 March 1907; 30 June 1907; September 1907; 29 November 1907', Papers relating to the work of the Native Land Commission in the East Coast, National Archives, MA 78 Item #10.

- present revenue for Maori owners from rent and royalties [from the likes of gum and timber]
- indebtedness on land for survey liens
- cost of opening for settlement

Stout, in particular, was especially keen to establish what kind of financial situation Maori owners were in - how much they were earning, how much they were having to pay out for surveys, and thus how much money they should have theoretically had in their pocket. Why this should have been any of Stout's business I do not know. However I would guess that although Stout was willing to try and keep Maori on their land, and during sittings encouraged them to farm, he also held grave doubts about their ability to be frugal with money and to save it for 'important commodities' such as stock. Stout assumed Maori would fritter away their earnings on alcohol, and was probably interested in the answers to such fiscal questions so that in both talking to Maori, and writing reports, he could make critical and warning noises about the people's handling of their money. Stout seems to have appointed himself as a roving personal bank manager to many Maori owners, and thus felt entitled to ask such details.

Further to this data collection, yet still as part of the pre-sitting preparations, Stout and Ngata also conducted interviews with land-valuers and stock agents. These expert witnesses were called to give evidence as to the value of land, its carrying capacity, and its proper classification, in order to establish the land's suitability for settlement under lease. The Commissioners also liked to obtain professional opinions with regards to the future prosperity of land and the values for setting lease rentals, and were assisted by such experts in the examination of deeds of lease and purchase agreements. Such information was considered necessary in order for the Commissioners to devise recommendations and suitable advice.

Questions were also submitted by the Commission to the Judges of the Native Land Court, Presidents of the Maori Land Boards, and Native Land Court Registrars, as these people were seen as being best qualified to make suggestions on improving the present condition of Maori land affairs, and it was hoped that the information and statements of opinion received from them would be of great value in the event of fresh legislation and procedures being introduced.

Furthermore Stout and Ngata also approached these sources in order to establish what blocks of land had been leased, and who held the legitimate title to the land in question, whether it be Maori or Pakeha. In trying to reach decisions, Stout and Ngata tried to establish a model in terms of who was entitled to what land, how much should be reserved for Maori occupation and farming, and what should be offered to Pakeha as farms. And it was to such knowledgeable and experienced sources that the Commissioners looked to for guidelines.

Official questions were published by the Native Department which administered all of the groups, and sent to the various Native Land Court and Land Board personnel. The questions were extensive, as Stout and Ngata sought to fully immerse themselves in details and opinions which would aid them in their recommendations. A prompt, written answer was expected by the Commission who were eager to progress with

their work. The following are copies of such questions, as found in the Stout-Ngata Native Land Commission file in the National Archives.⁹

'ROYAL COMMISSION QUESTIONS ADDRESSED TO THE PRESIDENTS OF THE DISTRICT MAORI LAND BOARDS:

- (1) Have you any suggestions to make as to any amendment of the law required regarding the Native Land Court or the Native Land Laws administration?
- (2) What do you think is a fair charge for the Boards to make [from Maori owners?] a.) for leasing their lands, and b.) for collecting their rents?'

'ROYAL COMMISSION QUESTIONS ADDRESSED TO ALL JUDGES OF THE NATIVE LAND COURT:

- (1) Have you any suggestions to make as to any amendment of the law required regarding the Native Land Court, or the Native Land Laws administration?
- (2) In your opinion could a code embodying Native customs regarding land and its holdings and title be prepared?
- (3) Are you in favour of appeals from Native Land Courts to the Court of Appeal of New Zealand, or to the Supreme Court, on law or fact where the amount involved exceeds say £500 as are allowed in Magistrate's Courts?
- (4) What rule is followed in declaring the rights of what are termed "adopted" children and their interests in land?
- (5) How are successors [to land title] chosen? Are the next of kin according to New Zealand law successors according to Maori custom?
- (6) Is there any amendment of the law required as to appointment of successors?
- (7) What is your view about allowing full testamentary power to Maori?
- (8) What is your view as to permitting Maori owners to exchange land with a Maori owner, or with Pakeha, or with the Crown?
- (9) What is your opinion about the present social and industrial conditions of the Maori people?
- (10) Have you any suggestions about improving such conditions?
- (11) Have you any suggestions as to making the Native Land Court and its offices more effective by getting rid of any delays, and should there be such in Native Land administration?'

'ROYAL COMMISSION QUESTIONS ADDRESSED TO REGISTRARS OF THE NATIVE LAND COURT:

- (1) Have you any suggestions to make as to any amendments of the law required regarding the Native Land Court, or the Native Land Laws administration?
- (2) Do you see any difficulty, and if so, what, in preparing a register of all Maori owners in each Maori Land District, so that, on searching this register, the ownership of Maori land can at once be discovered?'

Stout was well known amongst parliamentarians for his drive to consolidate and re-write Maori land legislation, so that it was concise, clear and easily understood. At a sitting in Napier, Stout told those present that Maori land legislation was in the

⁹ File - Various Reports to the Commission - National Archives, MA 78 Item # 21b.

'biggest mess any legislation of the world was ever in.'¹⁰ The Commission thus early on attempted a revision of the Maori land laws, and used their position to research the answers. Their later reports, particularly the 'First General Report', featured extended analysis of Maori land legislation, and the Commission also focused heavily on the perceived failings of the statutes.

These questions directed to the Native Land Court point out the apparent inconsistencies in the present Maori legislation, and offer an insight into the areas which Stout hoped to improve. The questions were designed to provide the Commissioners with new opinions and ideas as to the amendment of Maori land legislation, and they also highlight the Commission's preoccupation with government legislation, which they saw as the cause of the Maori land settlement issue. Both Stout and Ngata were also concerned about the ineffectual nature of the Native Land Court system, and appear to have used these questions in an attempt to understand why the Native Land Court had become so disorganised, and to subtly offer a way for the system to be amended.

However, revising Maori land legislation, on top of the task of conducting sittings, proved to be an impossible task especially in light of the unwillingness of the Native Land Court judges to answer the questions sent to them by the Commission. There are no records at all of any tabulated answers to the above questions having been returned to the Commission. Some letters suggested that the judges were unwilling to provide their personal views, and even questioned the right of the Commission to be asking for such private opinions in the first place. Nevertheless, Stout appeared to do and say fairly much what he liked, and was unconcerned about treading on the toes of others if it aided his quest to revise Maori land legislation. Nonetheless, all of the statistics asked for by the Commission were returned, and were later used in the schedules which the Stout and Ngata published in their reports.

As for Maori themselves, they were also subjected to intensive questioning by the Commissioners. Upon completion of their pre-sitting preparations, Stout and Ngata were ready to begin the sittings and their examination of the Maori landowners. In each district the same basic information was sought out, and similar details were commonly asked of the Maori owners by the Commissioners. Ngata told those who attended sittings, that during proceedings they would need to indicate:

- what the acreage of the block in question was
- the number of the subdivision
- what land was required for a papakainga, and what for use as a farm?
- whether they wanted to occupy, lease, or sell the piece of land
- how much land could be available for leasing?

These were very general requests for information. However for Stout and Ngata, the most important question was whether Maori were entitled to large portions of their land for the future, and this depended upon the Commission's decision as to whether the progress of settlement of the land up to the present had been satisfactory or not. Thus the main line of inquiry for Stout and Ngata when they held sittings throughout the North Island was to establish whether the Maori owners of the lands in each

¹⁰ As reported in the Napier Daily Telegraph, 12 August 1907.

district, 'by their past action and present endeavours', had justified their claims for a large proportion of their lands to be reserved for their own use and occupation.¹¹ The Commission was to establish whether Maori settlement of their lands up to the present had been satisfactory or whether it should be turned over to Pakeha settlers for 'productive utilisation'.

In assessing the productive capacity of the land, the Commissioners were looking to the future. If Maori for various reasons were unable to improve the lands, was the land in fact of good quality and capable of improvements in the 'right' hands? Could it be well-used by a Pakeha farmer? Thus, in endeavouring to establish the level of productivity and scale of profitable utilisation of Maori lands, the Commissioners also asked the following questions¹² to those Maori giving evidence:

- Which land are you occupying at present?
- To what use will land be put if you occupy it?
- Do you have ownership interest in land elsewhere, in another block?
- Do you have papakainga/reserve lands?
- What class of land was the block - first class, inferior? Was the quality of the land good, fair, or bad? Was it pastoral or agricultural land or did it contain timber? Was land even suitable for cultivation?
- What improvements have been made on the land, and had the quality of the land been improved? Were there any fences? Had the bush been cleared?

The Commission also made a point of inquiring into the mode in which the Maori were utilising their lands, and warned Maori that that could lose their lands if the blocks were not being utilised:

- Were the Maori owners engaged in farming or dairying? Were they farming land, if not why not?
- Were they cultivating anything? How much land was under cultivation?
- Could Maori farm? Did they have any experience working with sheep and cattle? Did they own any stock?
- Were there good systems in place for such activities? Did they need finances and tutelage?

From these questions, it appears that besides establishing how much 'unproductive' Maori land could be offered up for Pakeha settlement, Stout and Ngata were primarily concerned with whether Maori were farming their land, and if not, why not. Furthermore, the Commissioners seemed also preoccupied with enabling Maori to farm their own land, and establishing what resources, if any, they had to do so.

Many of these questions and the details requested by the Commissioners regarding Maoris' ability to farm, how their land was being utilised, and the more personal inquiries regarding revenue can be considered as somewhat intrusive. Certainly Pakeha would have protested, and even refused to answer the same questions had been directed at them. The privacy of Maori land-owners seemed not to be considered, as

¹¹ AJHR 1908, G.-i., p.16.

¹² Questions collated from throughout Minute Book of Evidence by A.T. Ngata, 11 February 1907 - 9 March 1907, National Archives, MA78 Item # 3.

Stout in particular proceeded to ask questions of any nature, and expected answers to all that he asked. Had some such details been requested from Pakeha at the time, there surely would have been an outcry that peoples' privacy and civil liberties were being invaded. Therefore, it seems evident that Maori, and particularly Maori land-owners were deemed as being 'different' to Pakeha, and their rights were of a lesser nature.

This is nowhere more evident than in the case of Waimarama, where the Commissioners were appointed to more accurately define an outstanding lease between the owners and Miss Gertrude Meinertzhagen. The Waimarama case had developed into a full-scale legal battle by the time the Commission commenced its investigation of the block, and Stout and Ngata had offered to arbitrate between the rival parties interested in the settlement of the Waimarama blocks. However, the principal owner, the formidable Airini Donnelly felt that her interests were threatened by the Commission. She wished to retain all her land for her own occupation and contended that she had every legal right to retain and farm her own land. Her lawyer also questioned why anybody, particularly the Commission should be inquiring into what his client was doing with her private land.¹³ This issue was a question of Maori rights over their lands.

Pakeha assumptions at the time determined that Maori and Pakeha had different abilities, and the reason for the Commission was thus ethnically based; 'Maori were incapable of farming, so how could they be asking to retain their lands for pastoral purposes?' Stout's own prevailing attitude was highlighted when he attempted to explain why the Commission was examining Waimarama, and stated that as the parties were not satisfied with the subdivisions of the Waimarama block, the Commission was trying to protect Maori from having their money 'needlessly dissipated in litigation', as was the case in nine-tenths of the Maori land cases Stout had heard.

Such Pakeha assumptions extended to the questions asked of the owners by the Commission. During the Waimarama sittings, nosey and particularly personal questions were directed to the owners. For example, they were expected to give the Commission all the details of every agreement and lease made between any of the owners and other persons, including the price or value they obtained from the purchase or lease of their lands.¹⁴ The intrusive nature of the Commission is highlighted by some of the questions it was asking, and in similar situations, Pakeha farmers were never required to give such personal details in their evidence. The Waimarama case, in particular, and the questions asked by Stout, is also a reminder that the work of the Commission was at times intrusive of Maori rights.

MAORI AND THE COMMISSION: APPROACHES AND ISSUES

Despite the importance of the collection of data, the asking of questions and the stock-taking role, however, these were not the main features of the Commission or its sittings. What is of particular interest to the historian, is the interaction of Maori and

¹³ Napier Daily Telegraph, 26 February 1907. See p.105 below for full discussion of the context.

¹⁴ *Ibid.*, 25 February 1907.

the Commissioners, and the issues which arose as a result of Maori participation in the sittings.

According to Ngata, the Commission played a unique role in changing Maori attitudes to their lands, and had an influence and effect that could not be assessed statistically or financially. The question of the disposal of the purchase money of Maori lands, and the question of the utilisation of these lands were questions which had never properly been put before Maori. Up until the time of the Commission, Ngata believed that the greatest difficulty that Maori had to face in the settlement of the Maori lands in the North Island was 'who was the owner of this land?' Because of titles, successions and partitions, Maori had been grappling with that one question since 1865.

However, the effect of the Native Land Commission had altered this standpoint 'entirely', stated Ngata, so that Maori were now looking at the land question and asking 'who should use this land?' 'We [the Commission] made no bones about it' he declared; 'the land must not be allowed to lie idle; if [Maori] are not going to use the land then the Pakeha must use it.'¹⁵ This was the view the Commission put before Maori, and rather than debating the ownership of the land, Maori were now being asked to consider the utilisation of the land. They were also forced to get their heads around a whole new concept of farming and improving their lands according to Pakeha specifications, for the Government had decided that Maori could no longer maintain the land as they had done over the last hundreds of years.

All things considered, the best strategy open to Maori landowners faced with the Commission was probably to co-operate, to attend sittings and to make their wishes known. If owners did so, they had a good chance of influencing the Commissioners' recommendations. Ngata reportedly told one meeting of Maori landowners in Hawkes Bay that 'if you do not do as we wish, directly our backs are turned the Crown will seize all your land.' Did Ngata really believe this, or was he putting unnecessary pressure on the owners to co-operate with the Commission?¹⁶ As one historian vividly explained it, 'many Maori communities were probably persuaded to accept the Commission as a lesser evil. They would preserve some at least of their lands if they co-operated, for to hold out might mean more draconian measures later'.¹⁷

Consequently, Maori in the North Island were generally anxious to meet the Commission and for it to hold detailed inquiries into their lands. Many Maori in Wanganui were in 'sympathy' with suggestions made by the Commission and the Government prior to the hearings, and at earlier sittings in the Hawkes Bay. The

¹⁵ Apirana Ngata speaking in the House of Representatives, reported in The New Zealand Times, 15 October 1909.

¹⁶ Minute Book of Evidence by A.T. Ngata, 11 February 1907 - 9 March 1907, National Archives, MA 78 Item #3. It seems more than likely that Ngata was trying to put pressure on Maori to co-operate, rather than believing that the Liberal Government, which he was a member of, would go against their stated policy of 'protecting Maori from landlessness, and seize more Maori lands. However, having applied such pressure to Maori, when Ngata arrived in the East Coast with the Commission, his attitude was somewhat different as he discouraged his own people from handing lands over for general settlement. See discussion below of Ngata's speech at Waiomatatini, pp.150-154.

¹⁷ G.V. Butterworth, 'The Politics of Adaptation: the Career of Sir Apirana Ngata, 1874-1928', MA Thesis, Wellington, 1969, p.125.

people agreed that the land at the present time was not only to a large extent lying idle, but, for want of cultivation, was deteriorating. However, the general opinion was that the sale of lands should cease, and that leasing should be promoted by the Commission. They wished the Commission to recommend that land not used by Maori for their own purposes should be leased to other Maori for farms, and any remaining balance offered to Pakeha.¹⁸

Letters received by the Commission seem also to suggest that tribal leaders saw the Commission as a way of avoiding the resumption of Crown purchase. Maori aspirations with regards to the Commission, and their greatest desire overall, was that the rest of their land should be left to Maori, and it was the wish of many of them to go farming. They desired that no further purchases should be made, and if there was to be any land sold it should only be by the unanimous wish of the whole tribes, not that of a single owner.

Other Maori hoped that this 'experiment' of the Government would be more successful than its previous experiments, and were generally willing to co-operate with the Commission as it gave Maori a chance to discuss government policy as it affected their people. In particular, Maori were pleased to be given the chance for discussion with Ngata. As a member of their own 'race', Maori believed that Ngata would obviously be in sympathy with, and have a great understanding of and desire to promote the Maori cause.

It should be noted however, that the operation of the Commission did not rely on co-operation from Maori, and although they mostly got it, the Commission would have proceeded with or without Maori consent. It was entirely up to the Commissioners (subject of course to their terms of reference) to decide which blocks of Maori land they could and would deal with. Some have suggested that the Commissioners were unable to examine and make recommendations about a particular block if the owners did not voluntarily co-operate.¹⁹ This was not the case. In fact there was nothing in their instructions requiring the consent of owners.

Although Maori co-operation was mostly forthcoming, Stout and Ngata and the role of their Commission were challenged early on by a Maori owner and her lawyers. Although the sittings were seen to be a two-way process which would allow for Maori to say their piece, Airini Donnelly, one of the principal owners of the Waimarama Estate and her lawyers were irritated that Commission was even involved in the Waimarama land dispute, and angry that Commission assumed that it could involve itself in any kind of Maori land dispute under the guise of 'talking it out' with the owners.

The Waimarama dispute, was the biggest discussion relating to leased Maori land, which the Commission first investigated once their proceedings had opened in February 1907. The Waimarama Estate included three separate blocks, known as Waimarama, Waipuka, and Okaihau, of a total area of 35,000 acres. About 33,000 acres of these blocks were leased by the owners to Mr Meinertzhagen in May 1886 for

¹⁸ The Napier Daily Telegraph, Napier, 23 March 1907.

¹⁹ See for example, R.J. Martin, 'Aspects of Maori Affairs in the Liberal Period', MA Thesis, Victoria University of Wellington, 1956, p.129.

twenty-one years. In February 1887, a sublease was granted by the lessees to Airini Donnelly and her husband George Prior Donnelly of about approximately 15,000 acres. Airini Donnelly was a considerable owner of land in the Waimarama Estate.²⁰

In 1901, Airini Donnelly had several partnership deeds prepared, and these were signed by many of the other Maori owners. Within the terms of the agreement, every one of the partners was to remain the owners of their land, and was to receive a share of the profits on that basis. Mrs Donnelly was to become the controller of the partnership stock, and of all partnership affairs, and, to quote the agreement, 'was to have sole and exclusive control of all affairs of the partnership, but shall confer with and consult the members of a committee whom the partnership may elect for that purpose.'²¹ The farm manager was to be appointed by Mrs Donnelly, and they were to have full power to deal with and sell the partnership stock and could not be removed without the consent of all partners.

Interestingly enough, this special manager was to be Airini Donnelly's husband, and the committee consisted of her close relatives. As the Commissioners noted during their investigation, this was not a usual partnership, in that one of the partners was the 'sole arbiter of the partnership destinies.' Mrs Donnelly could manage as she pleased; practically the sole management of the partnership was vested in her hands, and if her husband had been appointed special manager, he could not have been dismissed by the partnership unless every member agreed.

Given that the original lease was to expire in May 1907, steps were taken by Gertrude Meinertzhagen, a daughter of the original lessee, to obtain a lease of the block from the owners. There were several leases prepared, however, a large proportion of the owners who signed the leases had also signed Airini Donnelly's partnership deed. It was stated to the Commission that some of them signed the leases in order to get rid of the partnership.²² A contest then arose between Meinertzhagen and Donnelly. The former strove to get the land leased, whilst Airini Donnelly wished the agreement for the partnership deed as described above, to be carried out. Applications for partitions were made, and determined struggle ensued which quickly developed into full-scale litigation and court battles. The Commission arrived in the area in the midst of such legal debate.

Given her favorable position in the partnership agreement, it was understandable that Airini Donnelly tried her hardest to prevent the Commission from investigating the Waimarama Estate. In particular, she raised the question of whether in fact the Commission even had the jurisdiction to examine the block. The Waimarama case was already being heard by the District Land Board at the time of the Commission's hearings. Thus Donnelly's lawyers H.D. Bell and T.W. Lewis tried to hold up proceedings at the Land Board, in an attempt to prevent the Commission from hearing the case, and to protect the interests of their Maori client.

Nonetheless, the sittings went ahead, and Bell immediately launched into an attack, stating that he was of the opinion that the Commission had no jurisdiction in this case

²⁰ AJHR 1907, G.-1, p.1.

²¹ Ibid., p.2.

²² The sittings in the Napier Courthouse with regards to the Waimarama block were fully documented daily in the Napier Daily Telegraph. See articles 23 February- 2 March 1907.

because it was a legal dispute between two private parties. He also commented that he could not see what advantage could be gained in referring the matter from the Land Board to the Commission. Angered that 'a mere lawyer' should dare question the jurisdiction of the Chairman of the Commission and Chief Justice, Stout responded curtly, that it seemed to him that the 'Commission was wide enough to cover everything about Maori lands.'²³ This was a very broad comment to make, and Stout obviously thought that the Commission could do whatever it liked. Thus quite early on in his work, Stout was raising the Commission to quite a level.

On a more personal level, both Stout and Bell took it upon themselves to wage battle against each other; the 'young upstart' verses the 'elder statesman of law'! Stout believed that the Commission undoubtedly had jurisdiction to deal with the Waimarama case, and boldly stated that as the parties were in litigation it was thought that by referring the question to the Commission to act as arbitrators it could be settled without any lengthy litigation. Adopting a more 'bolshy' tone, Stout continued, that 'if the parties would not agree to this the Commission would go on in their own way and call before them who they pleased and report...the fact that litigation was pending would not stop the powers of the Commission. These were almost dictatorial powers which Stout was applying to the Commission; he believed that the Commission could do what it liked, it need answer to no-one, and nobody could stop its progress! Bell however was like a terrier, and continued to hassle Stout: 'Do you hold that the Commission has the authority to interfere with the partitions made by the Native Land Court in the Waimarama Block?', countered the lawyer. 'I think we have', replied Stout! In concluding the spat, Bell reiterated his feeling that he was entirely against the transference to the Commission of the jurisdiction of the Board with regards to the Waimarama dispute. With an unquestionable tone of finality, Stout then stated that the Commission would continue with or without Bell's support! He obviously held very little regard for Bell!²⁴

Nonetheless, Airini Donnelly proved to be a formidable opponent for Stout and his 'all powerful' Commission. She did not want the Commission involved and refused to recognise its jurisdiction. Thus when the Stout and Ngata released their recommendations in the hopes of resolving the dispute, Donnelly promptly responded with the threat of Supreme Court action, claiming that the relevant report was made without legal jurisdiction or authority.

Stout must have learnt from this initial experience that the Commission was not omnipotent, and instead was required to fall in line beside many other agencies dealing with Maori land. In the case of Waimarama Stout had boldly told those present at his sitting that the scope of 'his' Commission was unlimited, but in later sittings where discussions on leasing and applications for title arose, the Commission often wouldn't get into such discussions because it involved stepping on toes of others who also had a legal right to deal with Maori land issues. Thus on a later occasion, the Commission ruled that:

'...a number of applications for removal of restrictions and for consent to lease were brought before our [the Commission's] notice; but, as they are all matters

²³ Napier Daily Telegraph, 23 February 1907.

²⁴ Ibid.

in which...the Maori District Land Board have full jurisdiction, we do not think it proper to usurp its functions or in any way make a suggestion or recommendation as to how the applications should be dealt with.'²⁵

Both Stout and Ngata frequently turned down requests for help because it involved stepping outside the bounds of the Commission's terms of reference, and interfering with the territory of other Maori land agencies. A common reply by Stout to letters he had received from Maori land owners asking for Commission approval of lease applications was along the following lines:

'...I [Stout] presume that the applications [for lease] have been dealt with the Maori Land Board, which alone has the necessary jurisdiction to dispose of such matters, and of all the details of the transactions...The Commission over which I preside does not under the circumstances see its way to interfere with the findings of a properly constituted authority...'²⁶

However, leaving aside the questionable jurisdiction (and even 'nosiness') of the Commission, it seems that the Maori owners who appeared before the Commission were given a fair hearing. Yet in order for the Commission to work its way quickly through a lot of districts, discussion at times had to be kept brief, and in these situations, Maori giving evidence were allowed little time to depart from a seemingly strict agenda. Nevertheless in many respects, although Maori often just stood up, answered the Commission's questions, and sat down again, the sittings were a two-way discussion between Maori and the Commissioners. Maori were encouraged to offer their own suggestions as to the future disposition of their lands, and were often asked to elaborate on their reasoning for such proposals.

Likewise Stout and Ngata responded during sittings, and delivered immediate opinions on what Maori had told them. Often they agreed with the suggestions, and other times they submitted alternative proposals which they encouraged the people to consider and later return to the Commission with their answers. Stout and Ngata also played a major role in giving advice to people during the sittings, and Maori looked to them for quasi-decisions on disputes and saw the Commissioners as neutral mediators sent by the Government to use for whatever purpose.

The Stout-Ngata Commission was the first time Maori had been given the chance to discuss their concerns with a Government body, and the sittings were very much an equal forum for discussion between Maori and the Commissioners. Not forgetting however, that Stout was the Chairman and remained very much in charge throughout the proceedings! Still, according to Stout, most of the Maori met by the Commission were 'very reasonable', and what they asked for was 'not extravagant'. Furthermore, Maori appeared willing to discuss any problems they had, and Stout felt that it had been easy to compromise and reach suitable conclusions.²⁷

Sittings were held so that the interests of each individual or family could be defined, and were designed to clarify the Maori perspective as to how they intended to utilise

²⁵ *AJHR* 1908, G.-1R, p.2.

²⁶ Letter Stout to J. Black Esq. Timber Merchant, 13 June 1908, Papers relating to the work of the Native Land Commission in the Thermal Districts, National Archives, **MA 78 Item #12**.

²⁷ *Napier Daily Telegraph*, 14 March 1907.

the land. The basic nature of Maori evidence was mostly in reply to the Commission's inquiries regarding usage of their land, how they were occupying the blocks, the condition of the land, and what they proposed to do with the land in the future. In some situations such as the proceedings in Tauranga, Maori were unprepared to make a decision as to what they wished to do with their lands. In such cases, the Commission was adjourned to enable the Maori owners with interests in the land to make up their minds as to what they wanted.

Although Maori evidence differed in each district, the format of the sittings followed a general pattern, as did their statements. For example, once the proceedings had been formally opened, the representative Maori owners would stand up one at a time, and proceed to supply particulars of their present occupation, the area of the block in question, position of its title, improvements made to the land and numbers of stock. They also stated what portion the owners desired to reserve for their occupation and for kainga, and what, if any, for general settlement. Sometimes the land was required to be incorporated under a communal ownership to facilitate its utilisation.

Often one family owned a few subdivisions - one which they were occupying, and one or two which they wished to retain for the purposes of farming or preserving the traditional methods of growing flax. Of the remaining subdivisions, the owners might be willing to lease these to adjoining Pakeha settlers, other Maori, or members of their extended whanau. Some hapu were also willing to cut off the interests of individuals from the block so that those people could manage their interest independently or even sell to Pakeha. More often than not, the owners had also already sold many hundreds of acres chiefly to the Crown, and were adverse to any further sales of their land. Nevertheless, a few examples did show that where Maori had interests in other lands, they were willing to sell the occasional block, so as they could use the proceeds to stock and improve their other blocks for farming.

Of the lands to be leased, occasionally the lessees would be named by the owners; generally they were other Maori. Other lands were simply offered up for lease by auction, to be made available to any members of the public, Maori or Pakeha. Maori saw public auction as the fairest way of making the land accessible to everyone, and not just the Crown. They also saw auctioning as a way of ensuring that they received a favourable and market-price value for their land, something which the Crown had always tried to undercut when leasing Maori lands. If the block was to be leased, Maori also specified the term and generally wished to receive not less than five percent rental.

Sometimes owners objected to the proposals of their fellow owners. Their objections were recorded, and if reasonable the case was usually adjourned until after lunch, so that the parties might meet and come to an arrangement. In some instances this was found unworkable, and it was then up to Stout and Ngata to decide which of the differing propositions from the various owners they thought was the best option for the future of the block of land. In particular, such disputes arose when the majority of the owners had offered the land for the lease for example, yet one owner opposed this, and wished to have their interest withdrawn from the rest of the block so that they could do what they liked with the land. More often than not such wishes to retract a portion from the main block proved impractical as the owner in question would have been left with only a few acres to survive off.

Some Maori were unable to attend sittings due to the distance they would have had to travel. Nevertheless they seemed to eager to communicate with the Commission, and hand their land over to be dealt with. In these cases, their evidence was generally sent by post, and they enclosed in the mail figures and data regarding numbers of owners, individual percentages of interests, and how they wanted to utilise the land. Furthermore, after the sittings had been held in a district, the Commissioners were still swamped by correspondence from Maori writing with their concerns and their aspirations for the land in question. Often, these letters contained additional information to that which had been brought forward at sittings.

The following representative statements - given by one owner on behalf of their family, hapu, or group of owners - provide a suitable range of particular examples as to what Maori proposed for the future of their lands. Excerpts from various sittings include²⁸:

“This block is second class pastoral country...to be leased by public auction...”

“The owners have other lands, and thus wish their shares in the block [in question] to be sold in order to provide funds to work other lands...”

“This block should be leased, but urupa to be reserved...”

“Land to be reserved for use of owners, except for swamp areas for which negotiations are afoot for leasing for flaxing purposes...”

“We are living on this block, and we want 200 acres reserved as a papakainga. The timber rights are already leased to [Pakeha company]...”

“Three quarters of this land is heavy bush. The rest is open fern. The milling timber are rimu, kahikatea, totara, and a few kauri trees. No kaingas on the block and no improvements of any kind have been made. The wish of the owners is to have land leased.”

“This land is first class pastoral country...I wish it to be a family farm...”

“I wish to reserve mine and my children’s’ interests as a papakainga...”

Amongst Maori in Northland and in the Bay of Plenty there was a common theme to have their land left completely alone. Whether it was because of financial difficulties which prevented Maori utilising their lands like Pakeha, or whether it was because of suspicion of Maori land legislation, distrust of the Commission, or a simple desire not to let go of their lands, there was a united view amongst Northland Maori that all their land should be retained for Maori occupation. There were no disputes and no pulling in opposite directions by multiple owners of the land. All Maori in this region wanted the same thing and had a unified goal - the land was to be maintained for

²⁸ Taken from the minutes of various Commission sittings throughout the North Island, using the National Archives, MA 78 papers, Items # 6, 9, 12, 13a, 13b, 15, 17, relating to North Auckland, the Bay of Plenty, Thermal Districts, King Country, Wanganui, and the Wairarapa respectively.

their occupation, and was certainly not to be sold. They were not keen to lease to Pakeha but could have been persuaded to lease blocks to other Maori.

Maori in North Auckland had started to improve the land themselves, with out Pakeha 'help'. In one area, much of the land had been planted in fruit trees by the owners. They told the Commissioners they wanted the block incorporated, and wished to work the land themselves. They also desired to be left alone, and wished to carry on their operations in their own way.²⁹

The Te Karae block of 19538 acres was one of the larger blocks examined by the Commission in Northland. The block had been split into four subdivisions, and all the owners were keen to reserve the land primarily for Maori occupation. The owners of No. 1 represented by Waaka Hohepa wished to retain the whole of their subdivision. There were five families with interests, with five small kaingas, a few cultivations and small clearings. They had however commenced to improve and fence the land. Once ample provision had been made for papakainga, they wanted the rest of their subdivision divided into convenient sections for lease to the other Maori owners of the Te Karae subdivisions.³⁰

The owners of Te Karae No.2 represented by Rihari Mete and some of his sons, asked that 800 acres of the 9000 acre subdivision be reserved for a papakainga and the balance to be cut up into sections and also leased to some of the block's 97 owners. A list of specified Maori tenants was then handed to the Commission. Rihari Mete urged that Te Karae was the best land owned by his family, and they desired to farm it on a large scale. Interestingly, Stout and Ngata's impression of the reason for Northland Maoris' demand to reserve much of their lands, was that many Maori were making good money cutting out timber off their land for supply to the timber mills, and were certainly not keen to give this revenue up, particularly to Pakeha.³¹

From the Bay of Plenty, Stout received an impassioned plea from Te Reneti Te Whauwhau (Teurungawera) of Bowen Town, who told the Chairman of the Commission in a letter, that his people had been forced from their land on Mayor Island by the Crown and were now living 'on other Maoris [sic] land'. Te Reneti wrote that his people had no other lands and had thus decided to return to Mayor Island where they would plant crops. 'I am going to tell you this', said Te Reneti, 'we do not want to sell Mayor Island or lease. A lot of the island is occupied with graveyards from the olden times to now...we want the law to tie this land for the tribe so no won [sic] can sell it.'³²

Of those Maori who wanted their land left alone to be managed and occupied by themselves, many also stayed away from the Commission, in the hope that their absence would register their protest at the Government's interfering with the control of Maori land. These people saw no need for change, and tried to halt the inevitable

²⁹ Maori evidence heard at the Commission sittings in Pakanae and Opononi, 22 April 1908, Papers relating to the work of the Native Land Commission in North Auckland, National Archives, MA 78 Item #6.

³⁰ Draft Report on the Te Karae Block, to Carroll from Commissioners, 15 May 1908, pp.1-2. National Archives, MA 78 Item #19.

³¹ Ibid., pp.2-3.

³² Letter to Stout from Te Reneti Te Whauwhau, 19 May 1908, Papers relating to the work of the Native Land Commission in the Bay of Plenty, National Archives, MA 78 Item #9.

process. They wanted to be left to work the land, and support their iwi as they had done before. For them, the Commission and Government were interfering with their ways and methods, and they simply wanted to be left alone.

It was rare then for people to be making decisions to sell their land, and there was a fairly universal objection among Maori throughout the North Island to selling any more of their land, particularly to Pakeha or Government. Certainly, many Maori did attend the Commission's sittings in order to voice their wish to reserve the land for Maori occupation, however more often than not, Maori were responding to the Commission's requests and making decisions about the utilisation of their lands and the leasing of surplus areas. However, the enactment of the *Native Land Settlement Act 1907*, brought the issues of whether to sell or lease Maori lands, to prominence, and indeed could be read as arbitrarily making the decision for Maori.

The *Native Land Settlement Act 1907* was enacted to govern the work of the Commission in some respects, and to provide a means of giving effect to all of the recommendations made by the Stout-Ngata Native Land Commission, in particular to provide a short and effective way of making the 'surplus' lands available. As a result, according to Loveridge, most of the Commission's work was carried out 'in the shadow' of the Act.³³ By Section 4, which is the first section of Part I, it was provided that when the Commission reported that any Maori land was not required for occupation by the Maori owners, and was available for sale or lease, an Order-in-Council was to be issued to declare that such lands should be subject to Part I of the Act, and automatically vested in trust in the local Maori Land Board. Section 11 provided that as soon as land became subject to Part I, the District Maori Land Board, with the approval of the Native Minister, was to divide such land into two equal portions, and set apart one such portion for sale and the other for leasing. Therefore, if for example, Maori owners resolved to lease 2,000 acres of land, and the Commission reported that this area of 2,000 acres was not necessary for their own occupation, the result would be that the Board would have to sell 1000 acres, and only lease 1000 acres.

This not only allowed for further Government alienation of Maori land, but effectively removed all control Maori had over their lands, and placed it in the hands of Maori Land Boards and the Native Minister. If Maori had chosen to lease land which they hoped to return to in a few years, by Section 11 half of it was to be sold from under their feet, and very much against their wishes.

Although Maori seemed to keep away from discussions of past government policy with the Commission, in general they seemed particularly to understand the *Native Land Settlement Act 1907*, and were especially wary of Section 11. Amongst the Whanganui and Ngati Maniapoto iwi, the Commissioners found much distrust of Section 11 and believed that this provision had greatly hampered them in obtaining the consent of Maori for the opening-up of their lands for settlement.³⁴ Maori felt strongly that they ought not to be prevented from either selling or leasing their lands

³³ Donald Loveridge, *Maori Land Councils and Maori Land Boards: An Historical Overview, 1900-1952*, p.69. See detailed analysis of the composition of the 1907 Act, its relevance to the Commission's recommendations, and the Commissioners' opposition to it, in Chapter Six, pp.208-218.

³⁴ *AJHR* 1908, G.-1F, p.1.

if they pleased, and the effect of Section 11 of the *Native Land Settlement Act 1907* was to force them, if they wished to lease their lands, to sell half of what they wished only to lease.

No Pakeha landlord would ever have been required to sell half of the land he or she only wanted to lease, because of the huge public outcry which would have followed. Maori resented this attempt to place them in a subservient position compared to Pakeha. In protest, Maori suggested to the Commissioners that if owners did not come before the Commission, and did not offer any land for sale or lease, their lands would, unless the Commission recommended that the land be taken without Maori consent, remain 'unsettled' but it would still remain in Maori hands.

Nevertheless, Maori were also aware that those who wished to occupy and farm their lands, or lease them, could have them placed under the protective provisions of Part II of the 1907 Act. Section 54 allowed that any Maori land that the Commission recommended be reserved for the use and occupation of Maori could be brought under Part II of the Act by Order-in-Council, which meant that no person could acquire any kind of interest therein without the consent of the Governor. Although local Maori Land Boards were authorised by Part II to act as the agents of the Maori owners for the purpose of leasing their lands, sales of land classified by Section 54 were prohibited, and all leases and sub-leases had to be held by Maori. Part II also provided for Maori who had leased land to take advantage of a loan to farm, stock, and improve their other lands, and proposed that blocks of leased land could also be incorporated and administered by a committee of owners.

Thus, under Part II of the *Native Land Settlement Act 1907*, Maori owners retained the titles to their lands. However, their ability to transfer any interest in them was restricted, with the Land Boards being given jurisdiction over all leasing. As far as Pakeha were concerned, in effect Part II took a specified portion of the lands remaining in Maori ownership 'off the market'.³⁵ As far as Maori were concerned, there was still a willingness among many of them to co-operate with the Commission, even though its recommendations were shackled by Section 11 of the 1907 Act. It seemed that for Maori, although they risked the prospect of being forced to sell more land, being able to lease their lands under the protective provisions of Part II was perhaps the best option in a bad situation.

Maori often quoted the Act in giving their evidence to the Commission, and in stating what they would like seen done with their blocks of land. For example, the statement "I want to lease this land under Part II of the 1907 Act" was heard frequently by Stout and Ngata, and possibly meant that: the Maori owners were willing to lease parts of their land as long as enough was set aside for their occupation; they were willing to lease the land to other Maori, or vest it in the District Maori Land Boards; they wanted to take advantage of a loan to farm, stock, and improve other lands; and, the leased land might be incorporated and administered by a committee of owners.

Stout and Ngata believed that Maori 'ownership' of the land was very clear, and although the 1907 Act tried to remove the rights of ownership from Maori, the Commission had no intention of taking these away from them. Stout and Ngata

³⁵ Loveridge, *Maori Land Councils and Maori Land Boards*, p.71.

showed an understanding of the importance of land to Maori by not attempting to take away their control over their land, but rather handing its management on to someone else, or the Land Boards. Did this show an understanding of the Treaty, in that Stout and Ngata wanted to maintain, as guaranteed to the Maori, their rangatiratanga over the land, whilst ceding kawanatanga/governorship to the Land Boards or Pakeha?

It would appear Stout and Ngata made every effort to comply with the owners' wishes with regards to having their lands leased under Part II of the *Native Land Settlement Act 1907*. This would mean that some kind of limit could be imposed on the amount of land exposed to possible sale under Part I of the 1907 Act.

Thus although most Maori were not willing to sell the land, and consequently strongly objected to Section 11 of the Native Land Settlement Act 1907, on the whole they did not object to the promotion of general settlement. Seemingly protected by Part II of the Act, Maori were therefore willing to give up 'decent' amounts for lease, and were ready to have their land leased by public auction so that every person in the community had an equal chance of obtaining land for settlement. In the King Country for example, it appeared that a good deal of land was handed to the Commissioners for leasing by Maori.³⁶

In the King Country, the Commission consulted the Maori owners at a series of sittings throughout the region, and ascertained at first hand not only what areas they required for papakainga and for their use and occupation as farms, but what they themselves desired should be done with the area they offered for general settlement. The general opinion throughout the King Country was hostile to selling, and strongly in favour of leasing through the agency of the District Maori Land Board to the highest bidder. It also appeared to be the wish of the Maori owners to permit present leases to run out, and after reserving the necessary land for their own use, to offer leases again.³⁷

In the Whanganui District where approximately 500,000 acres remained in Maori hands, the owners of Waimarino Block A (14,850 acres), asked that they might have their lands partitioned by the Aotea District Maori Land Board so that the interest of each individual or family could be defined and allocated, after which they would be in a better position to farm or lease. On the other hand, Ngati Pikiao of Rotorua made up their minds to adopt incorporation, and asked that most of their lands be incorporated. They were willing to throw open their lands for settlement through committees elected by themselves. The committees were then to be authorised to set aside and define the areas to be reserved for papakainga and Maori farms; and to specify the areas for leasing, which were required to be by public auction or tender.

In some cases Maori wanted to lease their land to other Maori only, and specified the names of those to whom they wished to lease the land. However, in a contrasting example, the owners of the Ohutu block in the Whanganui were almost desperate to lease this block to anybody who would take it. According to the owners, Ohutu was

³⁶ *King Country Chronicle*, 13 March 1908.

³⁷ Papers relating to the work of the Native Land Commission in the King Country, National Archives, MA 78 Item #13a. See report of King Country sittings in the *King Country Chronicle*, 16 August 1907.

subject to large survey liens which they could not meet, and because they all had interests in other blocks, they wished to lease Ohutu. However according to the people, Pakeha had been deterred from trying to obtain the lease because of the difficulty and cost in obtaining the signatures from the 400 Maori owners of the block.³⁸

Thus, although the *Native Land Settlement Act 1907* raised the issue of the compulsory sale of Maori land, it also highlighted the notion of leasing surplus Maori lands, whereby Maori would maintain ownership. Stout and Ngata discovered that most if not all Maori were totally opposed to any further sales of their lands. However many did recognise that the blocks they owned were large and unable to be totally maintained, and were willing to enter into some kind of leasing agreement, under the protective Part II provision of the 1907 Act. The fact remains however, that because of Section 11, Maori landowners could still suffer the permanent alienation of a portion of their 'unused' lands which were taken for lease, without consenting to such sales.

Besides discussion on whether their land was to be reserved or leased, Maori evidence was also often a comment on the economic situation they found themselves in. Although many gave the impression that there was very little land left in Maori occupation, and that they needed what was left to survive from, there were surprisingly few stories of pauperism. People look back on the era now as one of creeping poverty for Maori nation-wide, but at the time of the Commission, it appears that they stuck to discussing the future disposition of Maori land, and did not thoroughly examine how people were coping both socially and economically. The Commission wanted to know what Maori were doing with their land, and that is what they were told. Adequate income, health, hygiene, and sufficient food and clothing were not topics discussed throughout the records of the Commission.

In the following example, one is initially struck by the appalling situation one particular iwi were living in, however the people themselves were positive that the land and the proceeds from it would provide them with a comfortable standard of living. For example from the Ngati Rangitihi of Rotorua, Stout and Ngata heard that over four thousand individuals were occupying less than 200 acres of 'worked-out' land. This had proved totally inadequate to provide the people with food, yet they 'clung' to the place on account of the schools, the large fish supply, and the greater opportunities of obtaining work nearby draining swamps and fencing for Pakeha.

However, as with other lands which Ngati Rangitihi had in the vicinity of Tarawera, the Commission was told that the effect of the Tarawera eruption had in some cases greatly improved these lands, which were now of good quality for the purpose of stock-raising. Thus, the iwi was willing to offer up much of this land for sale to the Crown. In return they wished to be left on the 200-acre piece they were currently occupying, and would devote the proceeds from the land sale entirely towards improving the productivity of this block. The proceeds would also be used to purchase fencing and stock so as to enable them to profitably utilise the land they lived on.³⁹

³⁸ Minutes from Wanganui sittings, no date, Papers relating to the work of the Native Land Commission in Wanganui, National Archives, MA 78 Item #15.

³⁹ AJHR 1908, G.-1H, p.2.

Some people, though burdened by financial debt, were eager to farm their lands, and others maintained that they were quite happy existing as they had done. The Maori owners of the Mangapuaka No.2. block in the Hawkes Bay desired to farm the land for themselves and to obtain a loan from the Government Advances to Settlers fund for the purpose of fencing, clearing, and stocking.⁴⁰ The owners of the 24,000 acre Mohaka block were interested in retaining their land for farming purposes either individually or as an incorporation. In contrast, the Ngati Haua people in the Piako County, told the Commission that 2000 acres of their lands were more or less all swamp and very rich flax country. The areas were all occupied by Maori. Flax had been principally their means of sustenance over the past years, and the land was in its unimproved state. They were happy this way, and felt that having to work the land as farms would cause difficulty and unnecessary expense because of the drainage required.⁴¹

As for Maori living in the district north of Auckland, a local resident, Waaka Te Huia, spoke to the Commission about the occupations and sources of revenue of Maori in his district. Their chief occupation had been gum-digging, and a large proportion were also employed in the timber industry and mills. However, since 1900 Maori had increasingly taken to farming as the gum and kauri industries began to give out. Consequently, since that time Maori had become 'keener' and more interested in farming as a means of income, and had begun to plant cultivations. Some had also gone in for dairying, and with a lot of factories in the area, Waaka Te Huia believed that in his opinion, Maori in the future would 'go in more largely for milking.'⁴²

Many Maori on their land at time of Commission's arrival were often already working the land, but land that was not theirs. Instead they were working under amicable but not legal arrangements amongst themselves. Contrary to what most Pakeha thought, in many cases the Commissioners saw that Maori lands were being put to "good" use by the cultivation of grain and dairying. Maori on the East Coast, under the guidance of strong leaders such as Wi Pere, Paratene Ngata, and even Apirana Ngata himself, had built up successful communal farms and desired to maintain the land they had left in order to aid further tribal development and progress.⁴³

Maori of the Coromandel County came before the Commission determined to emulate 'their successful relatives' (Ngati Porou in Waiapu) in farming, and as a result they

⁴⁰ Letter, H.F. Norris, Barrister to Stout, 16 December 1907, Papers relating to the work of the Native Land Commission in the Hawkes Bay district, National Archives, MA 78 Item #14. There was no annotation in this letter which indicated whether or not the owners would qualify for the loans, though we know now that because the Government considered Maori a liability, in all probability Maori applications for a loan would have been turned down. Furthermore, there is no indication from Stout and Ngata as to whether nor not they believed the owners would qualify for the loan. However in the reports which followed, the Commissions highlighted the need for the Government to financially aid Maori who wished to become farmers. Thus, they must have recognised the difficulty Maori were having in trying to obtain loans from the Government, and recommended that this situation be improved, and that Maori be given access to money so as to stock and improve their lands for farming.

⁴¹ This evidence was presented to the Commission by Anaru Eketone, Licensed Interpreter and Maori Land Agent, at the Morrinsville sitting, 26 June 1908. See Papers relating to the work of the Native Land Commission in the Waikato, National Archives, MA 78 Item #8.

⁴² Maori evidence from a sitting held in Dargaville, March 1908, Minute Book of Evidence by A.T. Ngata, 15 January 1908 - 16 March 1908, National Archives, MA 78 Item #4.

⁴³ See later case study of the East Coast and the Commission's investigations in Chapter Five.

had since 1906 broken in, cleared, and partly grassed about 2,500 acres and hoped to have all their lands under grass about the end of 1909. The stock on the ground comprised sixty head of cattle and 650 sheep. They were being helped by their Waiapu relatives and hoped to become similarly successful sheep-farmers. Although Maori here did ask for all of their ancestral lands to be reserved for Maori occupation, the acreage was really only a small area. Stout and Ngata were heartened by such evidence, and felt that to take away what little the people had left, would only lessen their enthusiasm or dampen their hopes.⁴⁴

However, in areas such as the Wairarapa, the Commissioners noted that there was little farming among Maori. Most of the young people were working for Pakeha, and the older ones seemed dependent largely on rents from their lands. Stout and Ngata noted however, that there was a 'laudable desire manifested among many to begin farming on a "proper" basis', and desired to assist such Maori by leaving small remnants of their land unalienated so as to be reserved for their occupation.⁴⁵

Thus, an initial study of the evidence Maori presented to the Commission sittings shows primarily that the dialogue between the Commissioners and people focused on how Maori intended to utilise the land, what they would like to do with it, and how much, if any, they were willing to offer up for lease. Maori appeared eager to undertake pastoral farming, but had differing opinions as to how to undertake this. Some wanted to maintain ownership of the land in order to advance community development whilst others talked of partitioning, individualisation of title, and independent management of their land interests. However, it was well established that Maori were opposed to any further sale of their lands, though the prospect of leasing the land where Maori remained as the owners was a more palatable solution for many people.

As a result of Stout and Ngata's preoccupation with encouraging Maori to farm, many of the conversations centred around land descriptions, stock numbers, and farming experience. It seems that discussion of the 'wider' topics such as Maori autonomy or past grievances resulting from the Crown and its Maori land legislation, was avoided by the Commissioners who tended to push the agenda along.

However, for most Maori, the Stout-Ngata Commission offered them more than just the chance to participate and air their wishes for the future disposition of their land; Maori also used the Commission's sittings as a forum to voice their concerns with regards to the treatment of Maori and their land. This is interesting in that one is able to see just how far Maori concerns had changed over the years of colonial settlement, and if indeed they had changed at all. Some, such as the Ngati Maniapoto,⁴⁶ were exceedingly forthright, and used the Commission to put forward their own initiatives, whilst other Maori were deeply concerned and approached the Commission in the hope that it would remedy their grievances. The Stout-Ngata Commission was thus not just about Stout and Ngata dictating to Maori how they should control the use of

⁴⁴ AJHR 1908, G.-1S, p.1.

⁴⁵ AJHR 1908, G.-1R..

⁴⁶ See pp.177-180. in Chapter Five, which discusses a document presented by Ngati Maniapoto to the Commission delivering suggestions as to how to protect and effectively settle the iwi's land. This is a good example of one tribe airing their concerns in a very forthright manner to the Commission, in an attempt to retain control of their own land.

their land; it also gave Maori the chance to publicise and express their concerns, wishes, and ideas for the future.

Questions from the Commission about Maori farming experiences and occupation of the land, raised a valid point amongst Maori which concerned many of them. Maori were being berated for not 'profitably utilising' their lands; however they needed money to complete such tasks, and that was proving the hardest thing to come by. Maori thus turned to the Commission and asked why in fact was it so difficult for Maori to obtain government advances and loans needed to farm and improve their lands? In both evidence given at sittings, and letters addressed to Stout and Ngata, Maori owners questioned their inability to qualify for government finance and urged the Commission to recommend that Maori be placed on the same platform as a Pakeha settler with regards to the government advances.⁴⁷ The point was raised by Charles Ormsby in his letter to the Commissioners, who commented that 'now I require the assistance of an advance for the purpose of improving my land, [so that it will not be compulsorily taken for public settlement] I am unable to obtain it, owing to the intricacies of the law.'⁴⁸

In this respect Maori had been forced into a corner where they had no choice, and their decisions with regard to the management of their land were severely restricted by the lack of finance available from the government. Maori felt that they had been squashed 'between a rock and a hard place' with regards to the utilisation of their lands, and appealed to the Commission to remedy such injustices.

Hone Heke, the MP for Northern Maori at the time, was also particularly anxious for his people, and was in favour of holding off the alienation of the freehold of Maori land for as long as possible to allow Maori time to gain the necessary finance and skill to work their own lands. He was especially anxious to protect the Maori of his electorate, and pointed out to the Commission in a memo that many in the Tai Tokerau district had already been rendered absolutely landless. Heke even urged Stout and Ngata to recommend that special legislation be passed to stop the purchase of Maori land in his district.⁴⁹

Hone Heke was also very concerned that the failure of many Maori attempts to farm their own lands was due to a shortage, and in many cases lack of finance. He advocated that financial assistance be made available to Maori individually or as

⁴⁷ Brooking has addressed this issue of why Maori failed to qualify for the Government's Advances to Settlers. He argues that it was the Crown and Pakeha belief that occupation of land could be justified only by productive land use. 'This system of land rights condemned Maori even more firmly than overt racism' because they could not present a legitimate case for holding on to their land, even though most settler politicians accepted that Maori were the original owners. Conversely, the denial of advice through the Department of Agriculture, *and of capital by failing to include Maori in the Advances to Settlers scheme*, made it unlikely that Maori could regain moral legitimacy by using their land more productively. 'Attitudes and structures locked them into a vicious syndrome from which it was difficult to escape.' Brooking then suggests that had trusts and incorporations been supplied with cheap loans from 1894 things might have been different, but Ngata only secured such help in the 1920s. (Tom Brooking, "Use It or Lose It", *Unraveling the Land Debate in late Nineteenth-Century New Zealand*, *New Zealand Journal of History* (NZJH), Vol. 30, No. 2., (1996), pp.141-162.

⁴⁸ Letter to Stout and Ngata by Charles Ormsby of Pekaui, 5 June 1907 in Papers relating to the work of the Native Land Commission in the King Country, National Archives, MA 78 Item #13a.

⁴⁹ Memo, Heke to Stout, 18 June 1907, Papers relating to the work of the Native Land Commission in North Auckland, National Archives, MA 78 Item #6.

corporate bodies for the proper working of their lands. He suggested that loans could be placed in the hands of the District Magistrate, the money to be paid out only on approved accounts for material and work done on the improvement of the land. Heke felt that assistance should be offered too, in the way of advice to Maori farmers so as they would understand how to use their land to its best advantage. Both Commissioners were supportive of this stance taken by Heke, and although the Government had previously paid little heed to the cries for assistance, Stout and Ngata placed much emphasis on Heke's suggestions in their reports and recommendations.

In general however, Maori wished to maintain sole control over, and the power to administer their lands and surplus lands, as they saw fit. Maori opinion was unanimous that Crown purchases should cease and that any relevant matters should be handled by the iwi. The fact that Pakeha interests had always been placed first was another chief grievance of the Maori people. Consequently, they rejected the interference of the Government which was demanding that Maori put up all surplus land for Pakeha settlement. This was a concern frequently heard by Stout and Ngata, and one which has been heard much over the years. Indeed, some Maori opposed the work of the Commission, and its inquiries into their land, on just that principle - that it took away their right to deal with the land as they chose. A representative of Ngati Raukawa told the Commission that all they wanted was to be left alone to live in the old style.

Thus the most important issue being voiced by Maori throughout the duration of the Commission was their desire to maintain control of their land, and this was the key concern they raised. For Maori, the Commission also highlighted just how far they had become locked into a system which had whittled away any remaining control they had over the future use of their lands, and which impacted negatively on the economic basis and social coherence of Maori communities.

With the settler hunger for land had come the cries for individualisation of titles.⁵⁰ This was a long-standing Pakeha cry which believed would 'raise Maori from their irresponsible and communistic state of living.'⁵¹ However, with the individualisation of titles also came the confusion and delays of land applications and the Native Land Court. Maori especially felt trapped by the restrictions of the Native Land Court, and the lack of real jurisdiction that they had over their own land. In turn this restricted the choices open to them in respect of their land, and prevented them from moving in any direction towards progress. Maori thus looked to the Stout-Ngata Commission to deal with their lands in order to avoid the jumble that was the Native Land Court.⁵²

At a Commission sitting held at Nuhaka in March 1907, the Commissioners again found that their inquiry was in connection with difficulties local Maori had

⁵⁰ This was a long-standing Pakeha cry, See Ann Parsonson, 'The Challenge to Mana Maori', in Geoffrey W. Rice, ed, The Oxford History of New Zealand, (Second Edition), Auckland, 1992.

⁵¹ King Country Chronicle, 18 January 1907.

⁵² In 1908, the Ngati Whakaue of Rotorua withdrew all their cases from the Native Land Court. Upon hearing of the Commission, they became anxious for Stout and Ngata to hold a sitting in their area in order to deal with their lands which had been referred to the Native Land Court for partition. (Telegram, 7 April 1908, Papers relating to the work of the Native Land Commission in the Thermal Districts, National Archives, **MA 78 Item #12.**) See the later case study in Chapter Five of the Thermal Districts region which discusses this incident.

encountered with regards to the Native Land Court. Stout and Ngata heard that although the Nuhaka No 2 block had been subdivided by the Native Land Court some years previously, due to complications with the title, the Maori owners were still awaiting the Native Land Court ruling. No surveys had been made upon the land, the titles were hung up, and Maori thus felt they could not improve or utilise their lands. A spokesman at the sittings pointed out however, that after great difficulties, some had chosen to improve their land, and now did not know whether the subdivisions would alter their arrangements. Furthermore, Maori had been put to great expense in advancing the position of their titles and in the long delays owing to a lack of proper surveys. Many of the owners were also engaged in dairy farming, and these milk suppliers were running their stock on communal lands without proper titles. Consequently, the want of these titles was 'keenly felt' at times when local differences revealed the 'insecurity of the present position'.⁵³

The Chairman of the Commission complimented the local Maori on the practical interest they had taken in the dairy industry, as evidenced by the fact that twenty of them were supplying milk to local factory.⁵⁴ Impressed with the fertility of the country he visited, Stout also remarked - somewhat paternally - that he was pleased to see the great activity of Maori in dairying and the improvements they had made, notwithstanding the 'almost insuperable difficulties they had had to encounter'.⁵⁵ He thought that perhaps the Commission could assist these Maori by organising proper titles to the land they were now occupying.

Gregor McGregor of Wanganui stated during the Commission sittings there, that a common cause of complaint amongst Maori was the lapse of time which occurred between sittings of the Native Land Court. On account of this, titles and subdivisions were not formalised, and large blocks were 'absolutely going to waste'.⁵⁶ Applications for partitions had been presented to the Native Land Court, and in many cases there was much delay. Nevertheless, in this time the Government had still cut portions off the remaining Maori lands to pay for surveys required for partitioning, and these portions had become Crown lands at a rate much below their real value. Owing to the Maori lack of money and their inability to combat the Government, Maori had had to let their land go at below-market price.

Maori were not allowed the power to deal with their lands as they chose, and were instead forced to sell to the Crown at a price they had no say in fixing. They had been restricted from dealing in their land in any way except by selling to the Government for a much lower price than that which could have been obtained from private individuals. As the owner of the land, Maori were powerless to use it, and instead felt locked into a system controlled by the Crown and the cumbersome Native Land Court.

⁵³ Napier Daily Telegraph, 12 March 1907., and The Gisborne Times, 13 March 1907. Although Maori never stated exactly why the lack of titles produced a problem, I presume that those who had successfully established dairy farms, did not want to have to hand them over to other owners once the title had been finalised, and claims to land had been finalised. A Pakeha theory seemingly common at the time was that 'hard-working' Maori feared establishing their own farms in case they could be taken off them by other Maori who had been granted the land in title, yet who had not previously contributed anything to the working of the land.

⁵⁴ Napier Daily Telegraph, 12 March 1907., and also Wanganui Chronicle, 12 March 1907.

⁵⁵ Gisborne Times, 13 March 1907.

⁵⁶ Wanganui Chronicle, 23 March 1907.

Furthermore, Maori concerns were often expressed about succession lists, which were managed by the Native Land Court, and the failure to replace the parent's name on the list of tribal owners with that of the child named as successor. Often uncles and other extended family members would add their name to the title in place of their deceased relative, increasing their own share in the land. Slowly as children's names were increasingly not placed on land ownership titles and lists, they became alienated from the land. As earlier acts had stipulated that the names of Maori owners had to appear on lists in order to be granted a legal interest in the land, this effectively removed all rights that child successors may have had to the land, particularly with regards to action in the courts. Many Maori children thus lost their interests in the land when their parents died and their names were never replaced on the titles.

Scholars have criticised the "evils" of the succession system as run by the Native Land Court, and Ward has stated that the question of succession was one further unfortunate consequence of the 1865 Lands Act. What the Court did through Chief Judge Fenton, was to decide on an administratively simple, but rather fluid interpretation of the succession process in Maori society. Alan Ward writes, that Fenton therefore divided the estates of Maori deceased, male or female, in approximately equal shares to all children, resident or absent. The result was that titles soon became divided into an infinite number of shares, smaller and less economic with each succeeding generation, 'until they were so over-crowded and fragmented as to put the actual land almost beyond efficient use.' Moreover, the whole Maori population was encouraged to indulge in the pursuit of inheritances from both sides of their ancestry and in districts remote from where they lived.⁵⁷ (In traditional Maori succession, children inherited the rights to the use of lands only in the village where they lived, and from one parent and not both.) This led to one of the major issues which has characterised Maori concern; the effect that many people owned small fragments of rural land that were too small on their own for economic or legal use. As shown by the Maori concerns expressed to the Commission in the example above, the consequences of Fenton's decisions on succession had been increasingly felt ever since.⁵⁸

Similarly, Maori were often involved in their own internal tribal disputes and family disagreements, which raised concerns about the impact of these on the admission of people to titles. Some such cases were presented before Stout and Ngata, in the hope that the Commission would resolve the in-fighting. One example, saw the Commissioners receive a very sad-sounding letter whose author laid claim to a share in a certain block. According to him, a determined effort by other members of the iwi had been made to exclude his name from the land's title because he had somehow betrayed the iwi. Consequently, he had approached the Commission to investigate the block's title, and hoped that his name could be inserted on all the tribal grants - not that he wanted it for himself but in the interests of his eight children.⁵⁹ The response from the Commission was unknown, however we do know that Stout was not keen to become involved in personal disputes such as this, and would probably

⁵⁷ Alan Ward, *A Show of Justice: Racial 'Amalgamation' in Nineteenth Century New Zealand*, Auckland, 1995, pp.186-187

⁵⁸ George Asher and David Naulls, *Maori Land*, Planning Paper No. 29, Wellington, March 1987, p.31.

⁵⁹ Letter, Reiha Keokeo to Stout, 15 January 1908, Miscellaneous Papers relating to the Stout-Ngata Native Land Commission, National Archives, MA 78 Item #18.

have referred the person on to the Native Land Court in order to sort out the question regarding title.

Maori were also anxious to become farmers,⁶⁰ and realised that if they did not farm the lands themselves, the Pakeha would do it. From what Stout and Ngata told them, Maori did not have a choice - if they could not productively utilise the land, then it would be leased to Pakeha who could. However, Maori, with no money and little experience in agriculture and pastoralism, were thus unable to farm. They literally could not maintain their land to the standard demanded by the Crown. Unable to maintain their land as the Government had asked of them, Maori were having to succumb to the pressures to open up their lands for lease, removing any chance they may have had to live successfully and in comfort off their own land. It thus became a vicious cycle which was proving inescapable for Maori. To maintain their land Maori needed to farm it, yet to farm it they needed funding and education, both of which the Government were unwilling to provide.

It was believed by Maori and many Pakeha, that Maori should have been encouraged to thrift, and been given the opportunity to farm their lands through the provision of technical schools and the like. However, the government had not done so and instead had set about getting a hold of Maori land at much under-valued prices. According to Maori evidence heard by the Commission in Wanganui, the Government had not encouraged Maori to rise through work, they had simply taken their land, and left the people 'impecunious.'⁶¹ With the failure of Maori to be given a proper start, and to be treated as equal to the Pakeha, Maori felt locked into a system which kept them down both as a people and as an economic community.

The *Native Land Settlement Act 1907*, gave the local Maori Land Boards the power to receive the purchase money from Maori lands, and to manage it for Maori, given the financial inexperience of many. The Boards could say whether the whole of the purchase money was to be paid to the Maori owners. However, some Maori were deeply mistrustful of the Boards, and also saw them as cumbersome agents of the Government which lacked interest in the welfare of the people. Concerned about their own lack of familiarisation with saving and investment, Maori were thus worried as to what to do with the money derived from the leasing of land, and feared that many were unable to use it 'judiciously'. They felt that cash - often thousands of pounds - should not be handed directly to the people, and told the Commission that in the great majority of cases the money which Maori had received for the sale of their lands had been dissipated.⁶² With no experience in the management of their own finances, many increasingly spent their earnings from the sale of land in a way that was no use to them.

Worse still, was the threat this posed to the social cohesiveness of the Maori community, where the moneys Maori had been paid for their land was often

⁶⁰ For example, the Ngati Maniapoto had delivered a list of suggestions to the Commission which embodied various suggestions for dealing with their lands. In particular, they mentioned their eagerness to farm the land themselves, and discussed the appointment of agricultural instructors to help them do so.

⁶¹ *Wanganui Chronicle*, 4 April 1907.

⁶² *Napier Daily Telegraph*, 23 March 1907. At a Commission sitting held in Wanganui on 26 March 1907, Stout asked a witness giving evidence How the Maori spent their money. The witness replied that this was 'rather a big question', but 'much of it was spent on drink and dress.' (*Wanganui Chronicle*, 26 March 1907.)

squandered on alcohol. Indeed, several Maori from Wanganui asked the Commission that the importation of liquor to up-river districts be forbidden. They complained that there was a great deal more drunkenness than there should have been, and as there was no police protection the effect was proving demoralising to Maori.⁶³

Often interpreted as laziness by Pakeha who did not understand the situation Maori had been placed in, there was a general sense of uselessness amongst Maori, who felt they could do nothing. Consequently, more often than not, Stout and Ngata were drawn away from the issue of opening up land, and instead were often approached for advice on how to mitigate the social consequences of uninhibited dealing in Maori lands.

There were a variety of other concerns Maori had, and voiced to the Commission. One was the effect that Government public works were having on land which was still under Maori settlement. For instance the owners of a block in Taranaki/King Country presented a statement to the Commission airing a grievance against the Public Works Department. The owners alleged that new railway lines ploughed right through the middle of their land, destroying paddocks and fences, including the destruction of a small orchard which the railway went straight through. The owners were aggrieved that no compensation had been paid to them for the destruction of property or for the use of their land. The statement concluded that a great deal of personal injury had been incurred by the Maori owners.⁶⁴

Likewise in the Whanganui region, Stout and Ngata were informed that a new road to be laid through Crown lands was cutting off Maori landowners from the water out of a stream which was being drained to allow the road to pass by. This was of serious concern to the Maori who felt the road would in effect cut off the cultivable portion of their land from the water - how then could they farm the land productively? Ngata agreed that it was a serious matter, and noted that the interests of the Maori owners should be well considered in the matter.⁶⁵

PAKEHA INVOLVEMENT IN COMMISSION

With regards to the nature of Pakeha concerns which may have been voiced to the Commission, information is very limited and there is little in the primary material to indicate what Pakeha evidence to the Commission may have contained. Stout and Ngata themselves say little about Pakeha concerns, having stated at the beginning of their work that the Commission set out to meet the Maori owners and ascertain their wishes, the Commission's purpose was not to ascertain Pakeha thoughts. After all these had already been forcefully voiced, both by the settler themselves and the opposition political parties.

As stated in the previous chapter, we know that other than lawyers who were acting for Maori clients, very few Pakeha attended Commission sittings. Instead, interested Pakeha generally sent their lawyers to converse privately with the Commission, or

⁶³ Ibid., 3 April 1907.

⁶⁴ General Minutes, Papers relating to the work of the Native Land Commission in the King Country, National Archives, MA 78 Item #13a.

⁶⁵ Letter, Ngata to Stout, 19 February 1908, Papers relating to the work of the Native Land Commission in Wanganui, National Archives, MA 78 Item #15.

they conducted their business with the Commission via correspondence. We know very little about what Pakeha may have expressed before the Commission. Our knowledge of Pakeha concerns must therefore be drawn from the media, and from occasional letters written by those who were upset at the disruption of lease agreements entered into with Maori, which had been halted by the start of the Commission.

In one example, the Pakeha author tried her hardest to coax the Commissioners into using their influence over the Maori to force the owners 'who had been stalling for some time', into selling their block to her.⁶⁶ The letter's author believed that as Pakeha the Commission and she should stick together against the demands of Maori. There was almost a conspiratorial, patronising tone adopted by the author, who hoped to enlist the Commissioners' help, "as fellow Pakeha", in solving her particular land problem. What about Ngata?! Needless to say the Commission's response was short and dismissive.

The Commissioners found particularly in the Hawkes Bay and Wairarapa regions - where much Maori land had already been leased - that their attention was drawn to attempts by Pakeha to obtain renewals of leases before their current terms had expired.⁶⁷ The settlers had been trying to avoid the Commission and had attempted (successfully in some cases) to make underhand arrangements with the Maori owners which would ensure that the leases they had to certain lands were secure for many years to come. The agreements made were often under second-rate, where the terms were excessive and the rentals under-valued.

Other Pakeha only sought out the Commission's help when they felt personally threatened that their title to land which they had bought or leased was not legitimate. They sought out the Commission in order to clarify their position on the land, and tried to embroil Stout and Ngata in a debate over the perceived ownership of a certain block of land. Pakeha expected the Commissioners to sort out settler differences with Maori owners, which left the Commissioners having to literally adjudicate a debate over who was the legal owner of a specific block of land, or who had the right to be occupying and utilising a specific block of land.

In contrast, however, Stout notes that a settler told him 'but for the native [sic] labour in the [Bay of Plenty] county, Pakeha farmers would be unable to continue their operations. He believed that some of the Maori were exceedingly industrious, however from what other farmers could gather, Maori farming was certainly not as good as that of the Pakeha, and many districts owned by Maori lacked farming enterprise. As a result, Pakeha witnessed 'acres of land lying wasted and unproductive'.⁶⁸

According to the Gisborne Times whose reporter had interviewed a few Pakeha settlers from the East Coast at the end of 1907, the majority of Pakeha felt strongly that the 'unoccupied' Maori lands should be thrown open for selection by Pakeha as early as possible. Pakeha had no desire to take land absolutely necessary for the support of

⁶⁶ Letter to Sir R. Stout from Annie G. McKenzie of Thames Valley, May 1908, Papers relating to the work of the Native Land Commission in North Auckland, National Archives, MA 78 Item #6.

⁶⁷ AJHR 1909, G.-1D, p.2.

⁶⁸ Waikato Argus, 13 May 1908.

Maori, but they thought that after Maori had reserved for themselves sufficient land to enable them to make a living, the rest should be offered to Pakeha. There was also a strong feeling that part of such land should be offered as freehold tenure.⁶⁹

However, many settlers did not feel the need to attend sittings, because they were convinced that if given a chance, the 'progressive natives' of the district would be glad to lease their lands to Pakeha, and the problem could be easily solved.⁷⁰ In that respect, many Pakeha were eager for the Commission to hold sittings in their district, so that Maori could hand over the land to the Commissioners, who Pakeha believed, would then throw it open to the settlers. Pakeha also hoped that the Commission would bring some 'finality' to the issue of 'unproductive' Maori land in their districts.⁷¹

Nevertheless, this optimistic Pakeha attitude seemed to fade quickly as the Commission's time progressed. When asked by a journalist who had been accompanying Stout and Ngata, what Pakeha now thought of the Commission (having finished its sittings in Waiapu on the East Coast), a 'quiet smile and a shrug of the shoulders, combined perhaps with the question, "What is it [the Commission] going to do?" appeared to be about the general attitude maintained by the Pakeha settlers of Waiapu. According to the report, some Pakeha appeared to have lost heart of ever seeing a solution to the question, unless, as many of them wished, a Government was to arise who, 'ignoring the rights of Maori would compulsorily acquire the extensive unoccupied areas', which Maori had been unable to derive any revenue from for years. Criticising the Native Land Court where Maori land had been hung up for generations in the 'dusty attics' of the Court, Pakeha were not blaming Maori for their failure to utilise the land 'profitably', rather Pakeha believed that it had been as a consequence of the tangle the Government itself had got the land into.⁷²

The Poverty Bay Herald went further, considering that it might be to the country's advantage to help the Maori. It berated the normal Pakeha attitude, writing that 'there are too many people inclined to treat with general indifference the movement for the uplift of the Maori...It would be to the eternal shame of New Zealand, however, if she [sic] did not stretch out a helping hand to the finest Native race under the British flag but allowed them to be despoiled of their inheritance by the speculator and land-grabber.'⁷³

Unlike the Pakeha attitude, Stout and Ngata were much more sympathetic towards the Maori view, and were even supportive of Maori grievances. As their work went on, they increasingly pulled away from their role as perceived by Government, that of pushing for the opening up of Maori land for Pakeha settlement, and moved more in the direction of protecting the welfare of Maori.

⁶⁹ Gisborne Times, 12 December 1907.

⁷⁰ Meeting of Kawhia settlers with Premier Ward, reported in The Kawhia Settler, 26 June 1908.

⁷¹ Napier Daily Telegraph, 7 February 1907.

⁷² Report of Commission sitting in Waiapu, in the Poverty Bay Herald, 13 December 1907.

⁷³ Poverty Bay Herald, 4 November 1908. At this time, the editor of the paper was Allan Leonard Muir. Very little is known about the man, except that he came from a family of journalists, and he personally owned the newspaper. He was not a rural person, and could be described as middle-class and urban - a "typical" Liberal voter perhaps, which may explain his enlightened attitude toward Maori. Or else as with many other Pakeha living on the East Coast, Muir had witnessed the success of Maori farming enterprises, was impressed by it, and felt no need to berate the people?

The Commission's terms of reference which called for Stout and Ngata to push the opening up of surplus Maori land became secondary to their desire to preserve Maori interests for the purpose of working the lands themselves. The Commissioners wanted to see Maori settled on enough of their own land, and given a mighty chance to utilise, farm, and improve it. The Commissioners both believed that during sittings, if it was found that any of the owners had no other lands, their interests were to be reserved. They especially looked out for those owners who had no other lands, and always recommended that sufficient area be set apart for the purposes of papakainga and Maori occupation. The parcelling-together of small, scattered portions to form one suitable area also engaged much attention from Commissioners. Stout and Ngata tried as best they could to obtain maximum benefit for the Maori owners, for they wanted Maori to be given every chance before they could be forced to put up their land for sale or lease.

They were eager to see Maori farming, and during sittings were anxious to hear the names of those who wanted land to farm so that it could be set aside for them. However as was their duty under the *Native Land Settlement Act 1907*, any land that could not be utilised by Maori would be defined, and the Commission was to recommend that half be sold and the other half leased. Nevertheless, in an attempt to further protect Maori, the Commission made the suggestion that when land was to be sold or leased it was to be done publicly and go to the highest bidder. This idea perhaps stemmed from the concerns expressed by people to the Commission, with regards to letting the Maori Land Boards manage the leasing of Maori land and the finances (see earlier text). Stout believed that in the past, Maori had not disposed of their lands in a business-like way, and in many cases were unable to get a decent value for the land. Furthermore, the intricacy and trouble involved in obtaining a title had contributed to this state of affairs.⁷⁴

Furthermore, concerned at the barriers which inhibited Maori attempts to farm, the Commissioners frequently commented that Maori should be aided both financially and through education in their quest to farm successfully and profitably. They suggested that there should be communal farms set aside for the education of young Maori in farming.⁷⁵ Ngata was also particularly concerned with obtaining enough finances for Maori to work their own land, and was in favour of Maori leasing to Maori for the purposes of farming and developing the land in Maori hands.

The necessity for taking up agricultural pursuits was also frequently impressed upon Maori themselves, as the Commissioners felt that they could not recommend that Maori be able to maintain their lands as farms unless they were competent to manage them. For example, during an early sitting in the Hawkes Bay, both Stout and Ngata addressed the local Maori owners of the district, and advised them to become industrious and make their land productive.⁷⁶ The Commissioners hoped that when they returned to the area, Maori would have good farms on the land that had been dealt with, and that they would be thriving. Stout and Ngata also willingly offered Maori alternatives. If the land proved unfit for pastoral activities, the Commissioners

⁷⁴ *Gisborne Times*, 11 December 1907.

⁷⁵ *Waikato Argus*, 27 June 1908.

⁷⁶ Minute Book of Evidence by A.T. Ngata, 11 February 1907 - 9 March 1907, National Archives, MA78 Item # 3.

generally suggested timber as another option, and told the owners that the land could in fact be profitably utilised under their administration.

During a sitting at Huntly in the Waikato in front of an audience of over 400 Maori, Stout stated that he was pleased to meet the 'Waikatos' on their own marae and to thank those who had spoken for their kind expressions of welcome. 'He saw before him a large number of fine, 'upstanding, and healthy-looking young men, who, he hoped, were industrious and energetic.' He trusted that they would take up farming pursuits. At the present time the great [Pakeha] want was for land, Maori land from which a large proportion of the wealth of the Dominion, as must be apparent to Maori, was derived. Stout hoped this would act as an incentive to Maori, and spur them on to take up their lands and work them.⁷⁷

In addressing Maori at the opening of the Land Commission in Wanganui, Stout's tone was less forgiving as he told Maori that they must use their lands, for if they did not work their blocks as farms they would not be allowed to keep the land. Voicing an opinion that mirrored the clichés of government thinking Stout expounded that 'the time had come in this country when the land must be utilised for the benefit of the people. If the natives [sic] won't use the land, others must.'⁷⁸ In raising the issue of Pakeha settlement on surplus Maori land, Stout then suggested that if Maori had land which they could not use, they should deal with it by leasing it to Pakeha - or as was Ngata's idea, lease the surplus land to other Maori - and utilise the money to stock their farms and to purchase the necessary implements.

At the time, Stout was also heavily influenced by the ideology of the Temperance Union, of which strong protests at the "moral decay of society" had gripped the Pakeha middle-class. As a result of this, Stout frequently made paternalistic comments to Maori throughout the Commission's sittings, and his moralising tendencies became well-known among Maori. Much attention was also paid by the press to Stout's exhortations, and his interviews were quoted regularly and reported faithfully in the newspapers. Was this because the majority of those who read the smaller local papers took every word of the "great chief justice and elder statesman" as gospel?

Most local newspapers reported daily on Commission sittings as they were held in their district and even throughout the North Island. Some, such as the Napier Daily Telegraph (NDT) were obviously keen followers of the Commission's progress - supporters of the Commission's objective even - whilst others, the New Zealand Herald for example, limited their commentary to cynical remarks in editorials. The NDT covered the Commission's progress all way from Wairarapa to Rotorua, the East Cape to Whanganui. It is not clear whether reporters sat throughout all the sittings but the paper did provide detailed coverage of evidence as was given, often related word from word to the official Commission minute books. Occasionally, the reporter would ask for an interview from Stout or Ngata to establish their thoughts and seek out Commission opinion, without having to wait for their reports which could often took a few months before becoming available for public reading. Stout appeared only too keen to be given a forum to expound his ideas and theories.

⁷⁷ Waikato Argus, Monday 16 November 1908.

⁷⁸ Wanganui Chronicle, 25 March 1907.

In particular, Stout appeared to doubt the moral strength and desire of Maori to successfully engage in farming their own lands. In urging them to correct the 'weaknesses of their race', and their sometimes profligate habitual tendencies, Stout contended that the responsibility for the well-being of their future lay with Maori themselves. While delivering threatening speeches which generalised the issue and sensationalised the problem, Stout admonished Maori regarding the perils of alcohol and sloth, as would a puritanical minister to one's parish.

One such example saw Stout assert that owing to their 'abuse of alcohol and their lazy habits the native population of Tasmania had become extinct.'⁷⁹ 'Pakeha had brought many evil things to the Maori,' continued Stout, 'and perhaps the most evil thing of all was the habit of drinking.' Stout believed that alcohol was one of Maoris' most serious 'enemies', and would destroy them if Maori did not pay attention to their health and stop indulging in 'intoxicating liquors.'⁸⁰

During a sitting in Wanganui, Stout was particularly sanctimonious in the course of some remarks on the 'indolence' of Maori, and strongly urged them to cease their 'habits of loafing and drinking'. Stout also emphasised that the Maori people could not live unless they worked their lands as Pakeha did, and spoke strongly against what he perceived as those of a tribe who did not work and lived off the labour of those who did. To conclude his fairly weighty attack on what he saw as the weaknesses in Maori, Stout also demanded that Maori should not be content to merely draw their rents and live on the money, but should have 'some ambition' to become 'good farmers'.⁸¹

Stout advised those present at sittings that if they desired to better themselves, and to see an increase in the Maori population, they must of necessity take up farming and outdoor pursuits. He feared that the Maori people would die out if they sold their lands and lived in 'idleness', and the only way he believed for Maori to survive, was for *them* to determine to live an industrious yet 'simple' life, and receive pleasure from working hard.⁸² Unlike Ngata, who believed that years of Government legislation and Pakeha land-purchasing action had demoralised Maori, and placed them under increasing financial pressure, Stout believed the responsibility lay with Maori themselves to rectify their shortcomings, and adopt a more Pakeha approach to life.

Besides denouncing aspects of the Maori "character", Stout frequently berated Maori for their monetary habits, and the way in which they "squandered" their money. He believed that Maori could only become flourishing settlers if they were thrifty, relinquished extravagant living, and learnt to save. Dealings in Maori land seemed to particularly concern Stout because, as well as being tempted by alcohol, he believed Maori were not thrifty with the money they received from the sale or lease of their lands. 'The Maori gets his money easily by selling land, and then wastes it', declared Stout, who maintained that for Maori to sell their lands and spend their money recklessly as they had done up until now would also only be a curse to the 'race'. To the people at Wairoa, Stout pronounced that the best way to make money was to save

⁷⁹ Ibid.

⁸⁰ Poverty Bay Herald, 10 December 1907.

⁸¹ Minutes of Wanganui sittings, as reported in the Wanganui Chronicle, 23 March 1907.

⁸² My own italics added for emphasis.

it, and he commended to them a 'good old Scotch proverb' which stated: "Take care of the pennies and the pounds will take care of themselves." Stout continued that if Maori neither drank nor smoked, money would be much saved. In advising this Stout rather patronisingly reminded Maori that he was not asking them to do anything that he did not do himself as he neither drank nor smoked.⁸³

Stout looked on the Maori patterns of expenditure as he understood them, as a 'bad habit', which like other bad habits could be eradicated and corrected. More so than many Pakeha, Stout exemplified the stereotype of the day which assumed that unlike themselves, Maori were incapable of controlling and managing their own money. Stout therefore was not really the bearer of an enlightened attitude, nor did he have genuine faith in the abilities of Maori. To him, Maori were still a people who had some way to go before reaching the standards of 'civilisation' as set by the British. This was a common impression held by Pakeha at the time, and given that Sir Robert Stout was an older gentleman brought up very much with the puritan attitude that hard work, thriftiness with money, and abstention from alcohol was the key to a successful and pious life, his attitude, although not commendable, is perhaps not surprising. Furthermore like other Pakeha, Stout did not understand the nature of Maori communities, and differing attitudes of the people towards managing finances and materialism. Consequently, he assumed that Maori needed much guidance from the likes of himself - an educated, frugal, hard-working and virtuous elder statesman.

The approach Stout took to his work with the Commission can thus be characterised by his regular sermonising to those Maori who appeared before sittings, and his attacks on the sins of alcohol, laziness, and lack of frugality. His main advice was to encourage Maori to work hard and prosper both financially, ethically, and as a people. In giving this opinion Stout felt that Maori had been presented with an opportunity by the Commission, and he instructed them to make the most of it.⁸⁴ However, in the course of his lectures, Stout gave no weight to Maori circumstances or Maori methods of survival shaped by those circumstances, and in his own way discredited the 'Maori way' in light of 'superior' Pakeha procedures. He was rather paternalistic in his approach to Maori, and often reprimanded and lectured those who attended sittings as though they were children. His attitude was dour, strict, and at times must have appeared over-powering to some and humorous to others.

In contrast, Ngata did not feel the need to lecture Maori on their perceived weaknesses, and rather promoted action to help Maori advance. Ngata's opinions were more in favour of helping Maori to develop whilst maintaining a strong link to traditional customs, rather than berating them for not living up to the Pakeha standards of decency and material success. Very occasionally, Stout expressed his admiration for Maori, and in telling the Ngati Porou of Poverty Bay that he saw in them 'great physical strength, intellectual ability and moral sense',⁸⁵ perhaps demonstrated signs of an evolving attitude. Was it the influence of Ngata which produced a sometimes enlightened Stout, and drew him away from Darwinist fallacies?

⁸³ Miscellaneous note, n.d., Papers relating to the work of the Native Land Commission in the Hawkes Bay district, National Archives, MA 78 Item #14.

⁸⁴ Sir Robert Stout, Minutes of Commission Sittings, in Papers relating to the work of the Native Land Commission in the Hawkes Bay district, National Archives, MA 78 Item #14.

⁸⁵ Commission sitting at Waioamatatini, as recorded in the Poverty Bay Herald, 10 December 1907.

Furthermore, in as much as he bellowed on, Pakeha were also not exempt from Stout's tirades. At a sitting in Wanganui, Mr David Howalls, a missionary of the Mormon Church, waited on the Commission and asked whether it would be possible for his church to obtain a grant of a piece of land for the purpose of establishing an agricultural school for the education of Maori. In reply, a very terse Stout said that he thought there was no chance of any more land being handed over to any church for such a purpose, in fact the tendency was for the church to hand land back to Maori. Personally, snapped Stout, he had always maintained that the State should undertake the matter of education, and he could not see his way to recommend the request. This was an unfortunate request to make of someone who, as Chancellor of Canterbury College, had battled for religious-free education. The Commission was then abruptly adjourned for the day.⁸⁶

On the whole therefore, the atmosphere at the Commission's sittings was warm, and yet, the Commissioners kept a "tight rein" on the sittings, and followed a strict agenda. In that respect Maori were not able to stray too far from the issue at hand, and their evidence was primarily based on how much land was needed for Maori occupation, and how much could possibly be opened up for Pakeha settlement. Nonetheless, Maori were generally welcoming of the Commissioners. The people were excited that for the first time a Government body was coming to their home districts where they were not only able to state how they wanted their land utilised and settled, but were also given the opportunity to discuss any concerns they may have had with regards to their lands. Maori were generally willing to co-operate with the Commission because it gave them a chance to discuss government policy as it affected their people.

More so than ever before, this Government Commission was able to feel and see the concerns of Maori. However, despite their wish to be responsive to the people's wishes, they were also required to seek out and find 'surplus' Maori land which could then be turned over and leased to Pakeha settlers. As a result of its sittings, there were two primary concerns which the Commissioners shared with Maori.

Firstly, the Commissioners can be seen to have shared the same concerns with Maori regarding the ineffectual operations of the Native Land Court. For Maori, their greatest desire was to maintain control of their lands, which included the power to administer their lands as they saw fit. In this respect they were particularly concerned about the inefficiency of the Native Land Court. Because of the delays in obtaining titles, many Maori had been loath to do anything with their land whilst it was still "hung up" in the Court and they had not been legally declared as the owners. Consequently, confusion about the Court and delays in obtaining land applications embittered Maori. They felt trapped by the restrictions of the Native Land Court, and the lack of real jurisdiction that they had over their own land. In turn this restricted the choices they had to make on their own land, and prevented them from moving in any direction towards progress. In agreement with Maori, the Commissioners both believed that this was an unacceptable situation, and demanded that all titles be decided by the Court as soon as possible. Because of this confusion, Maori had been

⁸⁶ Minutes of the Commission's sittings in the Whanganui region, as reported in the Wanganui Chronicle, 28 March 1907.

unable to progress, and both Stout and Ngata accepted that this was through no fault of the people.

Secondly, both Stout and Ngata wanted to see Maori remain on their own land and farming it profitably. Like Maori, however, the Commissioners were concerned that this aim could not be achieved due to a lack of available finance. Unlike Pakeha, Maori were not included in the Advances to Settlers Act, and were unable to secure money from the Government fund. Without cash, they asked, how were they expected to make improvements on the land and to purchase stock? Maori felt they were locked into an irreversible system - a system which prevented them from obtaining finance and education - whereby if they could not farm their lands, it would be taken from them. Yet without finance farming was impossible.

Stout and Ngata were extremely sympathetic to this cause, and vowed to do what they could to open Maori access to funding. During sittings, they emphasised in particular, that it was the Government's duty to provide Maori with sufficient funding and tuition for their farming endeavours. Both of the Commissioners also felt that protecting Maori was a priority over opening up land for settlement, and at most sittings encouraged the people to take up farming and make successes of it themselves. In a reminder that they were Government agents however, Stout and Ngata also warned Maori that if they could not work the land productively, they would lose it, for the Government was keen to see many Pakeha farmers settled.

From the evidence given at sittings, most Maori vehemently opposed any further sales of their land, although many of them were willing to lease that which they did not occupy, as long as the land was valued at market price and fair rentals were set. They wanted to be involved in the administration of their own land, and many of them wanted to farm their land, and if not, they wanted relatives or other Maori to do so for them. Maori wanted to be able to maintain their own satisfactory standard of living on papakainga which would be reserved to them for ever. They imply wanted to be left alone, but for the guidance of bodies such as the Maori Land Boards, and given a chance to succeed, without the threat of having their land taken.

Overall, Maori were given a fair hearing before the Stout-Ngata Commission, and attention was paid to these expressed wishes of the Maori landowners. However, although the wishes of the owners were given priority during the sittings, they were also subject to the opinions of the Commissioners, particularly Sir Robert Stout, these in turn were constrained by Pakeha stereotypes and conditioning, and for Ngata, the political climate in Wellington.

CHAPTER FIVE - Maori and the Commission: Three Case Studies

It is interesting to note that both Maori concerns and the nature of Maori evidence differed throughout the North Island. Although many Maori concerns and problems were universal, there were also specific regional concerns raised by the local people in each district that Stout and Ngata visited. This chapter thus focuses on some of the special circumstances of the Commission-iwi relationships, which arose primarily as a result of the unique history of each area. To illustrate this point, I have chosen to 'case-study' Rotorua, the East Coast, and King Country-Waikato; three regions where the issues and particular concerns raised by Maori, and the Commission sittings, had their own element of uniqueness.

Firstly, in the Rotorua region,¹ the rich resources of minerals and tourist attractions meant that land in Rotorua was much sought-after by both the Government and Pakeha settlers. Maori had reason more than most to be concerned for the future of their land as the Government was especially keen to obtain control of such lands which were rich in mineral deposits, timber, and popular tourist areas. The various hapu were particularly concerned with maintaining ownership and the control of their lands, and also wanted to ensure that they were suitably compensated for the wealth the Government hoped to derive from the land, and the riches harvested from their lands. In relation to the discussion of timber in Rotorua, this case study will also look briefly at the timber issue in Taupo, where a timber agreement had been entered into by Ngati Tuwharetoa with a Pakeha timber company.

The second region I have chosen to examine is the East Coast, which had always been somewhat isolated from the rest of the country and includes a discussion on the Waiapu County, the East Coast Trust lands, and the Mangatu and Whangara blocks. As this was Ngata's own area and he was quite heavily involved in the progress East Coast Maori had made in farming, the Commission's investigations and findings were particularly important to Ngata. Aware of his personal ties to the region, Ngata was forced to distance himself from his role as a member of a Government Commission. However, he did much to show Stout the advances made by Maori, and encouraged the Commission to leave Maori utilisation of East Coast land as it was, without opening it up to Pakeha interference and settlement. In the East Coast, Stout and Ngata were presented first hand with examples of highly successful Maori farming ventures, which the Commissioners then held up to Maori elsewhere as an example of what could be achieved. However, the region had also been ravaged by years of Maori land legislation and failed land purchase schemes, which had left many Maori saddled with heavy debt. What remaining lands the people had left were administered by trusts, and by what Maori saw as dubious trustees.

¹ The Commissioners classified the Rotorua region as the 'Thermal-Springs District', although they meant land only within Rotorua itself, and the immediate surrounding district. However, by 'Thermal-Springs District', their work did not extend to Taupo.

The relationship between the Commission and Maori living in the King Country-Waikato - the third region to be case studied - requires separate consideration because it represents the one area where Stout and Ngata struck difficultly in dealing with the people. As a result of political tensions which centred around the raupatu, the King Country-Waikato was characterised by factions; some who wanted to be completely left alone under the leadership of the Kingitanga, and others who were more forthright and presented their own list of proposals as to the future disposition of their lands, for the Commission's consideration. The work of Stout and Ngata thus required a certain level of diplomacy and patience. Bitterness at the legacy of raupatu also meant that the Commission was heavily mistrusted by Maori throughout the region, who wanted no part in the Government's attempt to find more lands for settlement. Consequently, the Commissioners found their work particularly difficult in an area where they were not welcome, as they struggled to encourage hostile iwi to make decisions as to the utilisation of their lands.

ROTORUA ISSUES

Within this district, the Commission's general task was to examine whether the land could in fact be left in Maori hands, or whether it should be taken for the purpose of scenic reserves, public tourist sites, or to be used by Pakeha for mining, milling and timber operations. Stout and Ngata had to consider just how much land had already been taken for such purposes, and how much needed to remain in Maori hands for iwi to 'suitably' live off.

At sittings in Rotorua and the surrounding districts, proposals put forward by the local iwi who included Te Arawa, the Ngati Whakaue hapu, and Ngati Pikiaio, indicated their concern over continued control of resources, particularly the land, and mineral deposits and timber. Much of their land came under the *Thermal-Springs Districts Act 1881*, and was therefore excluded from the operation of the *Native Land Settlement Act 1907*, and thus of the Stout-Ngata Commission. Nevertheless, Stout and Ngata did spend much of their time examining the Thermal Districts, and tried to unravel some of the problems which had arisen out of the *Thermal-Springs Act*.

[See Map One]

As it was considered advantageous to the colony, and beneficial to the Maori owners of land in which natural mineral springs and thermal water existed, that such localities should be opened to colonisation and made available for settlement, the Act was designed to give powers to the Governor enabling him to make arrangements for effecting that purpose.² The Act thus included all lands which were in the localities of 'hot or mineral springs, lakes, or waters', and prohibited any means of private alienation. Section 3 guaranteed the Crown's sole right to purchase such lands, and the Act also superseded the operation of any other statute within the area.

Section 5 gave the Governor the power to provide for the settlement of such districts, and among other things permitted the Crown to (a) treat and agree for the cession, purchase, or for the lease of any land, and enter into any relevant contract, (b) act as agent for the Maori proprietors in dealing with intended lessees, (c) treat and agree

² Preamble, p.125., Thermal-Springs Districts Act 1881, No.20., The Statutes of New Zealand 1881, pp.125-127.

with the Maori owners for the use and enjoyment by the public of all mineral or other springs, lakes, rivers, and waters, (d) exercise powers of compulsorily taking land under the *Public Works Act 1876*, and (e) exchange any reserve or public land for other land to be dedicated to the same or different public objects.³

The *Thermal-Springs Act*, also empowered the government to set apart from Maori lands reserves for public uses, such as parks, recreation sites, schools, churches, and cemeteries. Furthermore, the same section also guaranteed to the Crown, the management and control of use, of all mineral springs, hot springs, ngawha, waiariki, lakes, rivers, and waters, and also the power to fix and authorise the collection of fees for the use thereof. The following (Section 7) enabled to Crown to make and enforce orders and regulations for the management, preservation, disposition, and care of the land aforementioned.⁴

Thus the Maori of the Rotorua region effectively lost control of much of their land in the arbitrary passing of the *Thermal-Springs Districts Act 1881*. Furthermore, any chance they had of making revenue off the mineral wealth of their land was wiped by Section 8 of the Act which allowed the government to collect all of the licence fees for springs, baths, and lakes, and any other revenue produced from the lands.

A final section of the Act to consider, and one which was raised most in discussion by Maori, was Section 12. This covered the government's role in the disposal of Maori land by lease, and empowered the Crown alone to manage and administer such leases. In theory such transactions were still always to be conducted by public auction or tender. 'For the convenience of lessees', the Crown was to appoint the receivers of rent, and was also to make regulations for the payment of the expenses of the management of the property and the collection of rents. In further taking the financial control of their lands out of Maori hands, Section 12 (4) also allowed for the Crown to make regulations for the places, times, and manner of payment of rent to the Maori owners.⁵ Thus, Maori owners could only sell their land to the Crown, or lease it through the agency of the Crown. In terms of leasing, this meant that the land was most often not tendered by public auction, and did not always fetch the highest value for the Maori owners, or settle an adequate rental for Maori.

By virtue of this Act, the Crown had purchased all the blocks throughout the Thermal Districts containing hot or mineral springs, except the Tikitere Springs. One block, upon which stood the township of Rotorua, was leased from the Ngati Whakaue hapu. The experience of the Te Arawa tribe, particularly of the Ngati Whakaue hapu, seems to have been a bitter one, and the *Thermal-Springs Act* did not popularise the system of leasing.

At the time of the Commission's sittings, Ngati Whakaue had long since spent the purchase money from their lands previously sold to the Crown, and were cultivating very little of the land they held. The quality of the land was not particularly suitable for pastoralism or grazing, and none of their lands were under lease to Pakeha. A

³ Section 5, *Thermal-Springs Districts Act 1881*, No.20., New Zealand Statutes 1881, pp.125-126.

⁴ Sections 6 and 7, *Thermal-Springs Districts Act 1881*, No.20., New Zealand Statutes 1881, p.126.

⁵ Section 12, especially parts (1), (3), and (4)., *Thermal-Springs Districts Act 1881*, No.20., New Zealand Statutes 1881, p.127.

memorandum signed by the chiefs and some of the members of Ngati Whakaue was sent to the Commission. It was read out to Stout and Ngata at a sitting, and expressed the views of the hapu on the leasing of their lands by the Crown, and also included matters of a general nature, and of great importance to the iwi.⁶

The memorandum described the Rotorua region as an area well-endowed by nature with assets that attracted people from all parts of the world. The thermal springs, the 'beautiful' lakes and rivers, the historic spots, and 'charming' scenery 'conspired to create an enviable district.' Furthermore, such attributes attracted the attention of those concerned with the development of the natural resources in region, in order to make them available to the public of New Zealand and of the 'world at large.'

The memorandum went on to attempt to show the Commission, in the words of Te Arawa, how special legislation and acts of administration in this special area, had 'prejudiced' Maori interests, and 'disregarded the rights' Maori saw as sacred and guaranteed by the 'solemn promises' of the Crown and the Treaty of Waitangi. Te Arawa hoped to lay before the Commission 'some of the grievances and sorrows that they had suffered', and under which they were still labouring.⁷

The following information is taken primarily from the memorandum delivered to the Commission, and is a summary of the grievances and issues which Te Arawa brought before Stout and Ngata:

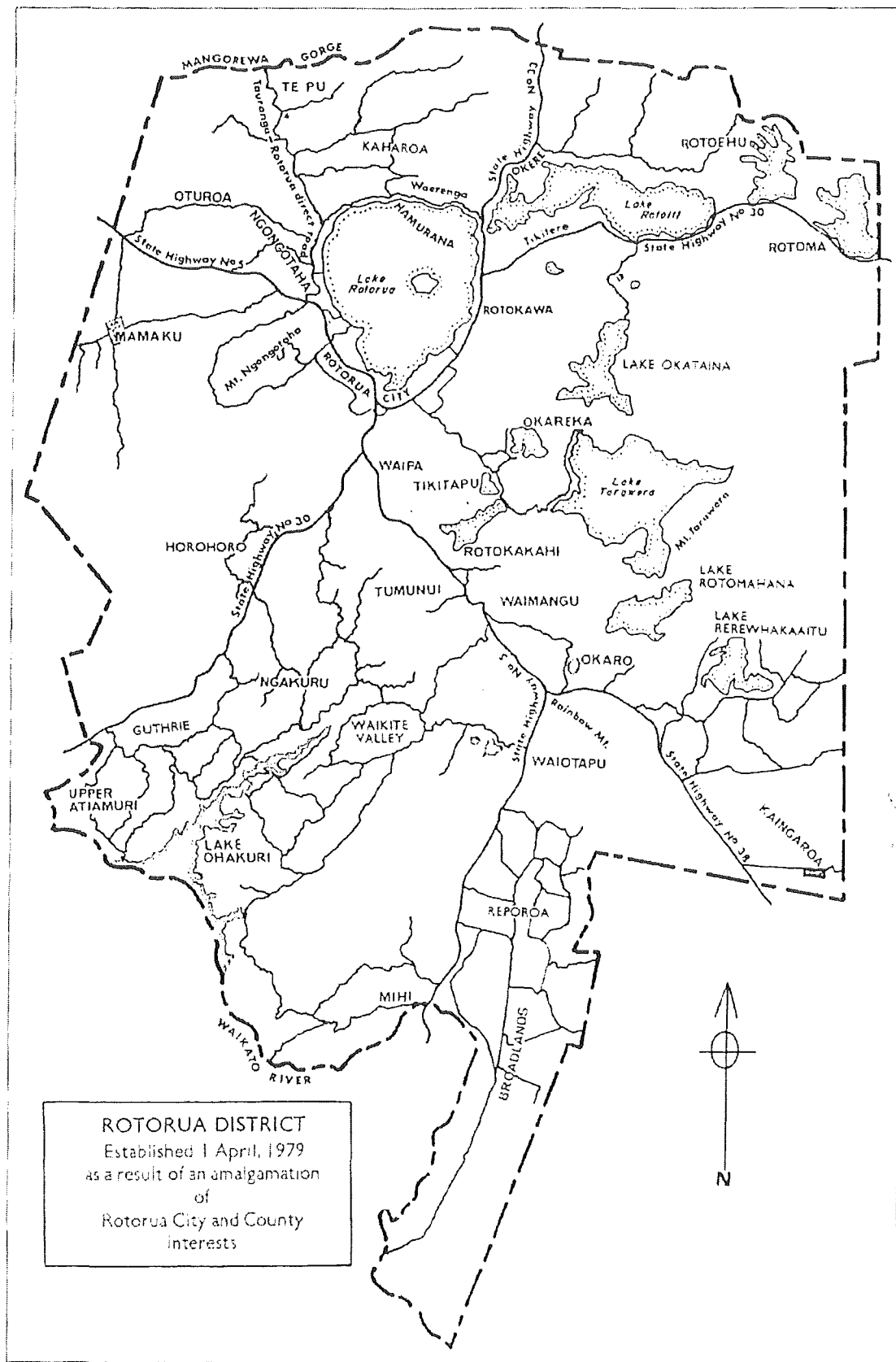
In 1880, Chief Judge Fenton of the Native Land Court on behalf of the Government, had asked that a township be established in Rotorua so that travellers visiting Te Arawa lands and the hot springs and other wonders, might do so in comfort and be suitably housed and entertained. The Thermal-Springs Act 1881 thus ratified an arrangement between the Government and Ngati Whakaue, administered by Fenton, whereby a town was to be established in the Rotorua thermal region and the land alienated on long lease, at public auction.⁸ This was agreed to, and after further negotiations about 3,600 acres were given by the Maori owners, surveyed and divided into sections for this purpose. The Government undertook to be the iwi's agent for the purpose of leasing, and also undertook the collection of rents. Excited by the prospect of future prosperity, Maori also gave the Pukeora Reserve, the Sanatorium Grounds, the Kuirau Reserve, the Arikikapakapa Reserve, and other sites for public buildings to be used by both Pakeha and Maori. These negotiations were then confirmed by Parliament by the *Thermal-Springs Districts Act 1881*, and the amending Act of 1883.

According to Te Arawa, thus far all matters were arranged 'to our mutual satisfaction'. The sections were advertised and leased by public auction, and the lessees entered into possession. In Rotorua initial auctions of land were wildly

⁶ 'Memorandum on General Matters Affecting the Arawa Tribe for the Information and Consideration of the Native Land Commission, now sitting at Rotorua', 16 January 1908, (Printed Copy), Papers relating to the work of the Native Land Commission in the Thermal Districts, National Archives, MA 78 Item #12. (A full copy of this memorandum can also be found in the Appendix, AJHR 1908, G.-1E, pp.6-8. Twenty-two people signed the memorandum, and the Appendix copy includes the names of those who signed it.)

⁷ 'Memo on General Matters Affecting the Arawa Tribe...', p.1. Papers relating to the work of the Native Land Commission in the Thermal Districts, National Archives, MA 78 Item #12.

⁸ Alan Ward, *A Show of Justice: Racial 'Amalgamation' in Nineteenth Century New Zealand*, Auckland, reprinted with corrections 1995, p.288.



Map One

successful, with rents being offered far in excess of those Maori usually received. From then however, 'a change came over the spirit of the administration', and within a year the system had begun to fail. After the first payments, from which survey, advertising and auctioneer's expenses were 'rigidly' deducted, rents fell into arrears as the Government neglected to collect them. The lessees also began to default on payment of rents, and organised a lobby for the repeal of the Thermal Springs Act, and the right to purchase the freehold. At the same time, the Supreme Court decided that Ngati Whakaue was not a body corporate and could not sue for rents.⁹

It was at this time, that Te Arawa's faith in the Crown began to wane. In their words; '...when we saw that not only were written agreements left unfulfilled but verbal promises valued by us as sacred and as valuable as the gifts we had donated to the public use, were disregarded or repudiated, our previous filial respectful faith wavered and engendered suspicion that all was not well.'¹⁰ As Ward writes, the whole Rotorua scheme had begun to founder in acrimony. What should have been a thoroughly beneficial system broke down.¹¹

The Government then approached the iwi with proposals to purchase the Rotorua township land, and proposed to buy that which Te Arawa had expressly covenanted should only be leased. Such action left the people in a state of 'despair and disgust.' Furthermore, there were back-rents owing and not accounted for by the tribe's trustee. In the memorandum, it was estimated that at the time of these negotiations for the purchase of the township land, there was payable to the iwi about £13,000 in rent monies. But the price offered and paid for the freehold of the township land was only about £7,500. Describing themselves as not well versed in the mysteries of arithmetic, Te Arawa could therefore not accuse the Crown of having taken advantage of their ignorance and confidence, although they truly felt it.

During 1881, the Thames Valley Railway Company asked Te Arawa for an endowment of land for their railway, and because the tribe thought that such a work would enhance the value of the town, they donated 20,000 acres of land of what was known as the Rotorua-Patetere Block. Later the Government bought out that company and its endowments, and the iwi thus insisted that since the original agreement had collapsed, the 20,000 acres should be paid for at the rate of 7/6 per acre. The hapu Ngati Whakaue who owned the land received only 5/6 per acre, with two shillings per acre being deducted by the Government so it was said as a consideration for the railway being brought to their town. At the time of the memorandum's composition in January 1908, it was understood that this land was now 'loaded' with £1. 5s per acre for timber rights alone, and was withdrawn from selection for settlement by Maori or Pakeha perhaps because of this valuable timber.¹²

⁹ Ibid. 'As usual,' Ward writes, 'the more feckless and imprudent Maori owners, tempted by promises of high prices, abetted [Pakeha wanting to purchase the freehold].'

¹⁰ 'Memo on General Matters Affecting the Arawa Tribe...', p.3. Papers relating to the work of the Native Land Commission in the Thermal Districts, National Archives, MA 78 Item #12.

¹¹ Ward, *A Show of Justice*, p.289.

¹² 'Memo on General Matters Affecting the Arawa Tribe...', p.4. Papers relating to the work of the Native Land Commission in the Thermal Districts, National Archives, MA 78 Item #12. See full discussion of the timber issue, and the Commission's involvement in examining the timber lands on pp.144-146 below.

Another grievance which the Arawa felt strongly about and brought to the attention of the Commission through the memorandum, was the destruction of indigenous fish in the streams and lakes of their district, by trout which had been placed by Pakeha in these streams and lakes.¹³ The trout were placed there as an attraction to tourists and others visiting the Rotorua District, however Maori suffered a great loss by the destruction of their indigenous fish. These fish were a major part of their food supply, and Maori were unable to fish for trout unless they paid a licence fee demanded by the Tourist Department. Thus, Maori told the Commission of the bitterness they felt at the destruction of their food supply, and of what they saw as a punishment inflicted upon them if they fished for trout in their own waterways.

In the memorandum, Te Arawa told the Commission that they had been taught to regard the *Thermal-Springs Act*, as the Magna Carta of their liberties, and as the declaration of their position as the land-owners. Furthermore, they understood that the Act acknowledged their having vested interests in all that pertained to their ancestors, and that it permitted the Government among other things to 'treat and agree with the Maori proprietors for the use and enjoyment by the public of all mineral or other springs, lakes, rivers and waters.'¹⁴ This therefore assumed in them a right to the properties mentioned and a responsibility on the part of the Government to negotiate for their use. They were not aware that they had ever parted with their rights to any of the waterways.

From these lakes, streams and waters, Maori had since the old times drawn a large part of their food supply, and there were indeed healthy supplies of fish, inanga, toitoi, koura, and kakahi which they had been accustomed to gathering. However, in order to make the lakes and waters of their district more attractive to tourists and the Pakeha public at large, the 'fish of the Pakeha' - trout - were introduced, and after years thrived and multiplied so that the indigenous fish were almost destroyed.¹⁵ Therefore, in the lakes and waters which Maori assumed were those generally referred to in the Act above quoted and also in the Treaty of Waitangi, and where

¹³ The introduction of such species was generally administered by the Acclimatisation societies which were springing up throughout New Zealand in the last three decades of the nineteenth century. This was part of a much wider move going on in many parts of the world, towards organising the acclimatisation of new animals and plants. With regards to New Zealand in particular, colonists brought with them to the new country familiar and useful animals and plants which they had known in Britain or Europe etc., and introduced them to the new country. Another aim of colonists in introducing fish and game to New Zealand was for tourist and hunting purposes. One of their primary aims was to provide cheap and accessible hunting and fishing for everyone; it was not just to be limited to a pastime of the aristocracy and wealthy, as hunting and fishing had been in Britain. For further context, SEE, R.M. McDowall, Gamekeepers for the Nation: the Story of New Zealand's Acclimatisation Societies 1861-1990, Christchurch, 1994.

¹⁴ 'Memo on General Matters Affecting the Arawa Tribe...', p.4. Papers relating to the work of the Native Land Commission in the Thermal Districts, National Archives, MA 78 Item #12. Taken from Part (3), Section 5 of the *Thermal-Springs Districts Act 1881*.

¹⁵ Although it is not possible to obtain an exact date, it was about the end of the 1870s, when newly formed acclimatisation societies became preoccupied with the establishment of various 'salmonid fishes', especially brown and rainbow trout, in lake and river regions such as Rotorua. Typically, these species, such as trout, became established quickly and certainly within a few years of the first releases. These species that succeeded soon spread and multiplied to produce harvestable resources [especially for Pakeha]. The numbers of trout quickly increased throughout the country without the continuing help of the acclimatisation societies. (McDowall, Gamekeepers for the Nation: the Story of New Zealand's Acclimatisation Societies 1861-1990, pp.29-30.

Maori were accustomed to fish at will, their native fresh-water fish supply was destroyed by imported fish.

They were also compelled by the Crown to pay a heavy licence fee for the privilege of taking food. 'We do not fish for pleasure', the memorandum told the Commission, and 'it is not the custom of our people to go long distances for the mere pleasure of catching fish which we do not eat.' Maori therefore claimed the right, where if foreign fish had supplanted native fish in waters which they had not ceased to regard as belonging to their native domain, to take these fish for food from these lakes and rivers. Indeed, in the memorandum, they threw themselves on the 'mercy of their one-time trustee and agent the Crown, who had not treated with Maori for the aforesaid waterways in the spirit intended.' They appealed to the Commission for the 'due and sympathetic recognition' of their claim to take fish for food, concluding that the indiscriminate taking of fish was not a privilege they had any desire to abuse.¹⁶

In summary then, the purpose of the Te Arawa and Ngati Whakaue memorandum was to explain to the Commission why the iwi had taken a somewhat hostile approach to what they saw as another government initiative not to be trusted. 'You have come amongst us to enquire into the position of our lands', stated the memorandum. 'You have not found us easy to deal with, because we have grown suspicious of Pakeha law and justice.'¹⁷ Maori had also grown very suspicious of schemes emanating from the Government, and this memorandum showed why. 'What guarantee have we that in the future our lands that we may offer to you for settlement may not be dealt with as the Rotorua township land was', asked Maori of the Commission. They also questioned the Government's aims with regards to the Commission and its terms of reference, asking that 'if it is the aim of the Government to secure for us against the "designing Pakeha" the highest price for our land, why should that government be allowed to dictate to us whatever terms they choose for the very valuable lands and other natural resources that we hold?'¹⁸

The memorandum, which reads as a very astute swipe at the devious government behaviour with regards to wealth of the Rotorua lands, attacked the Crown's substandard dealings with Maori land-owners. In the final page, Te Arawa ask why land belonging to a Maori and needed for a railway - land which in the hands of a Pakeha the Crown would have to pay through the nose for - should be 'contemptuously assessed' at its value for carrying sheep, when other considerations usual with Pakeha in such cases should weigh with the agents of the Crown? Was it because Maori were weak and had grown accustomed to taking the misdeeds of governments lying down?

In conclusion, Te Arawa and Ngati Whakaue informed the Commission exactly what they wanted done with their lands in light of Stout and Ngata's investigations. The people felt that they had been liberal enough in the past in parting with their lands to the Crown for settlement purposes. More than one half of the lands in their district

¹⁶ 'Memo on General Matters Affecting the Arawa Tribe...', p.5. Papers relating to the work of the Native Land Commission in the Thermal Districts, National Archives, MA 78 Item #12.

¹⁷ The Government had long regarded Te Arawa as an ally, and had been shaken when Arawa petitioned the Queen in 1891. The account above explains why Arawa had got so fed up with the Government, and been forced to petition. See 'The Arawa Petition 1891', AJHR 1892, A.-1.

¹⁸ Ibid., p.5.

had been acquired by the Crown at prices that were in 'after-wisdom of experience' considered as inadequate. They had therefore chosen to hold on to the remnants of their lands, and asked the Commission to take into consideration their treatment in the past - treatment which had also prevented them from securing suitable instructors who could have taught them the 'art of farming.'

'You find us now ignorant and suspicious and tenacious of our lands' stated the Maori owners, and 'because we have no other lands, we cannot give as freely as formerly we did.' Te Arawa thus asked the Commission that the bulk of their lands be reserved for Maori occupation, and Ngati Whakaue initially offered up little land to be leased. Accompanying the memorandum was a list of their lands, which described each block, its acreage, whether or not it contained valuable resources, and to what use the land could be put. With respect to most of the blocks in this list, Maori owners asked that the land be adapted for farming purposes by Maori themselves, or as communal papakainga. The lists also included statements from some of the owners as to why they wanted their particular blocks reserved for Maori occupation; many wanted to benefit and protect the well-being of their children and grandchildren. Those who wrote the memorandum also asked that they be assisted to utilise their lands properly, for '...we [the iwi] are confident', read the last sentence of the memo, 'that the same alertness we showed in the fighting days gone by will be shown in these times of peace, when the taiaha must give way to the ko.'¹⁹

Besides investigating the issues raised in the memorandum, Stout and Ngata were also required to examine other blocks of lands throughout Rotorua which contained valuable resources and tourist sites. Of all the thermal areas in the region, none was as important as the Whakarewarewa Reserve, and was considered by Government to be crucial to tourism. The importance of the thermal springs related to the healing properties in the waters, and the baths particularly were in constant use by invalids and sufferers from rheumatic conditions. The claims of cure and relief were remarkable, and the therapeutic properties of the springs were highly valued by Maori and Pakeha alike. Whakarewarewa belonged to Ngati Whakaue, but towards the end of the 1880s as tourist numbers increased, its potential was fully recognised, and the idea of it being commercialised was raised. By 1881 regular charges had been established by the Maori residents, who according to Stafford, were partly motivated by the income to be derived from tourists. The use of the baths continued to be in considerable demand, and by 1882, Whakarewarewa had become a normal part of the Rotorua tourist round. Above all else, there were geysers, which became the major points of interests in the Reserve.²⁰

With regards to the Whakarewarewa Reserve, Stout and Ngata's initial feeling was to recommend the reservation of this block for Maori occupation because of its cultural and traditional ties to the people. However, upon hearing from the relevant Maori owners, the Commission was alerted to a dispute which had arisen regarding the guiding of tourists and visitors through the hot springs on the Reserve, and which had culminated in 'a serious assault case' being heard in the Magistrate's Court.²¹

¹⁹ Ibid., p.6.

²⁰ D.M. Stafford, The Founding Years in Rotorua: a History of Events to 1900, Rotorua, 1986, p.122., pp.270-272., and p.354.

²¹ AJHR 1908, G.-1N, p.4.

The issue as explained to the Commission by the interested parties, was as follows. In 1877, while the land was still papatupu, the first arrangements were made about guiding over the reserve. The Government had not then acquired other lands which contained spectacular geysers, hot springs, and mud pools. In 1883 the title to the Whakarewarewa Reserve (officially known as Whakarewarewa No. 3 Section 1B Reserve), was ascertained by the Court, and in the following year a committee of ten members was appointed by the Te Arawa owners to administer the Reserve, and to levy and collect admission fees. 'This was the period of the toll-gate', the Commission was told.²² After the Crown purchased the greater part of Whakarewarewa, the toll-gate was allowed to remain. This continued until 1903, when Joseph Ward, then in charge of the Tourist Department, arranged with the Whakarewarewa Maori to abolish the toll-gate on payment to them of £100, and on the Government undertaking the maintenance of the Whakarewarewa Bridge. Up to 1905 there was an understanding 'well established' among the Maori, that all the guiding on the Native Reserve should be restricted to those who were on the title to the land, or their relatives. However in 1905, there was an attempt made by a section of the owners to introduce guides who had no interest directly or indirectly in the Reserve. This was resented by the other owners, and the 'parties came to blow', winding up in Court.²³ Similar trouble occurred again during the visit of the Stout-Ngata Commission in 1908.

Concerned that agreements regarding the Whakarewarewa Reserve and the guiding there were not being adhered to, and were inadequate, Arawa people presented their dispute to the Commission. They had full confidence in the Commission's judgements and wanted Stout and Ngata to solve this long-standing dispute.²⁴ With the help of the Commissioners, interested Maori thus suggested a method of administration for the Whakarewarewa Reserve which would be satisfactory to all parties, and the following points of agreement were drawn up²⁵: -

- (a) That a Committee should be appointed to manage the Reserve, to regulate the guiding, to levy and collect admission fees, to make necessary improvements such as fencing, and generally to administer the Reserve in the interests of the owners and to the satisfaction of visitors.
- (b) That all profits should be disbursed among the owners according to the relative interests. To this end it was urged that the collection of fees should be above suspicion, that accounts of receipts and expenditure be carefully kept and properly audited. The device of a toll-gate was suggested.
- (c) That the guiding of the Reserve should be restricted to the owners or their relatives.

The Commission examined a considerable area of Maori land in the Rotorua county, in its bid to establish how the people were utilising the land and what areas could be opened for general settlement. However without the jurisdiction to make partitions, they were unable to deal with certain blocks because the titles had not yet been determined by the Native Land Court. In particular, the titles to the lands situated generally to the north and south of the Rotoiti, Rotoehu, and Rotoma Lakes, were in

²² Ibid.

²³ Ibid., p.5.

²⁴ Papers relating to the work of the Native Land Commission in the Thermal Districts, National Archives, MA 78 Item #12.

²⁵ AJHR 1908, G.-1N, p.5.

an unsatisfactory position. Subdivisions were incomplete, and expensive surveys were necessary to complete the titles to this land, considered by Pakeha to be most valuable and suitable for pastoral purposes.²⁶

These lands had been the subject of appeals for years, and until the titles were determined, Stout felt that it was useless for the Commission to investigate them. Stout and Ngata thus called for a special court session to be held in Rotorua, and felt that if the Native Land Court could deal with such matters immediately and allow no adjournments then it would be of great 'material assistance' to the Commission. They forwarded to the Chief Judge of the Native Land Court a schedule of blocks of land in the Rotorua district which urgently required partitioning so that the Commission could complete its investigations in the region.²⁷

In reply to this request, Judge W.G. Mair of the Native Land Court was most indignant, and wrote to Stout informing the Commission that his court had already heard and decided upon the disputes raised by the Commission. Delays, rather than being the fault of the Native Land Court, were the fault of Maori; Mair stated that he had urged the people to get on with the cases requested to be heard by the Commission, but that they had urged him to take other work as they wanted to settle Commission cases amongst themselves first. Furthermore, Mair also told Stout that 'the natives [sic] as a whole...have not, up to the present, appeared before the Court to have partition orders made, and until they do so, the Court is unable to proceed.'²⁸ Having encountered Stout's somewhat intrusive questions earlier in the work of the Commission, Mair felt obviously somewhat threatened by the wide-ranging approach adopted by Stout, and did not like the work of his Court being impinged upon by the omnipresence of the Chief Justice sitting on a 'mere' Commission!

On the return of the Commission to Rotorua in March 1908, the Native Land Court had still not been able to effect any partitions, and the Ngati Whakaue had decided to withdraw their cases from the Court. Instead, the people asked Stout and Ngata to deal with their lands, rather than waiting for the completion of the partitions. Despite their earlier memorandum delivered at the initial sittings of the Commission at Rotorua in January 1908, Ngati Whakaue now showed great willingness to adopt measures as proposed by the Commission, 'for their benefit.' Furthermore, they 'expressed their willingness to hand over large areas for settlement by lease under the provisions of the *Thermal-Springs Districts Act 1881*, which they had so vehemently opposed in their previous memorandum.

It is not clear exactly why the people changed their minds. However perhaps having read some of the Commission's earlier reports, and having had some dealings with it, the iwi had decided that the Commission was in fact attempting to protect Maori

²⁶ AJHR 1908, G. -1E, p.3.

²⁷ Memorandum for Chief Judge, Native Land Court from Ngata, 20 January 1908, Papers relating to the work of the Native Land Commission in the Thermal Districts, National Archives, MA 78 Item #12.

Although this was a particular problem in the Rotorua region, it was certainly not the only region where the problem occurred. Stout and Ngata were held up throughout their investigations by a failure of the Native Land Court to have determined titles to all of the land the Commission were to have examined.

²⁸ Telegram, Jackson Palmer to Stout, 13 March 1908., and also Letter, W. Mair, Judge Native Land Court to Stout, 8 June 1908, Papers relating to the work of the Native Land Commission in the Thermal Districts, National Archives, MA 78 Item #12.

ownership of their land, and did not intend to trick Maori out of their land. It seems apparent from the Mair/Arawa standoff, that the people had not rushed into the Native Land Court. Thus, instead of waiting to have their land tied up in the Native Land Court, Ngati Whakaue obviously decided that to vest their land in the Commission would see positive action in terms of the future use of their land, rather than hanging on to it, and leaving it within reach of the Crown and its agent the Native Land Court.

Ngati Whakaue submitted the balance of their lands to be dealt with by the Commission. These comprised more than one-third of the lands referred to the Native Land Court for partition, but which Stout and Ngata were asked to investigate prior to completion of partitions. Ngati Whakaue were anxious that the state of the titles should not delay settlement of the land. At the same time however, the elders wished the partitions to be clearly defined, so that the future generations, 'not so well versed in hapu boundaries, may not be left to quarrel over the subdivisions.'²⁹

The hapu asked to amend their earlier statements that their land be reserved for Maori occupation, and instead offered an area of nearly 25,000 acres for lease only. They wanted this area to be dealt with under Section 12 of the *Thermal-Springs Districts Act 1881*, which stipulated land was to be leased always by public auction or tender.³⁰ In offering practically the whole of their lands for settlement the Ngati Whakaue insisted on the following conditions³¹: -

- (a) that no part of their land was to be sold;
- (b) that the term of lease was not to exceed forty-two years, and would be without compensation for improvements at the end of the term;
- (c) that in taking lands for public works, scenic reserves, and like purposes, adequate compensation would be allowed by the State Departments.

This last condition was particularly important to the hapu, as they had already seen what is known as the Rotorua township, taken from them on the grounds of public works. The freehold was then sold by the Crown, and the Ngati Whakaue were never compensated for either transaction.

Such experiences with land transactions and the Government as earlier described in Ngati Whakaue's memo, had made them extremely suspicious of the Crown's management of their lands. Ngati Whakaue therefore made it clear at the outset that they did not want any part of their lands sold.

Of the land offered for settlement by Ngati Whakaue, some of the blocks included much sought-after tourist spots, and indeed included land which occupied several miles on the shoreline of Lake Rotorua. These blocks were initially proposed to be reserved for papakainga, however the hapu considered the area 'too great for such a

²⁹ AJHR 1908, G.-1N, p.3.

³⁰ See Section 12, Thermal-Springs Districts Act 1881, No.20., *The Statutes of New Zealand 1881*, pp.125-127. Other than stating in Part 1, Section 12, that the letting or disposal of land by lease was to be done always by public auction or tender, Section 12 also stipulated that regulations had to be made for the payment of the expenses of the management of the property and the collection of the rents, and for the payment or division of such rents, and for the places, times, and manner of payment to the Maori proprietors.

³¹ AJHR 1908, G.-1N, p.2.

purpose', and desired to lease this prime location which would be largely availed of by tourists and others anxious to obtain lake frontages for camping grounds and holiday homes.³²

Naturally there would have been a keen demand for such sites, and Ngati Whakaue would seem to have displayed much generosity in offering such land to the public, rather than maintaining it for themselves. The only condition they asked was that they be permitted to lease the land directly to Pakeha, 'as if the *Thermal-Springs Districts Act 1881*, did not exist.'³³ In other words, Ngati Whakaue wanted to be rid of Government interference in their land transactions. Previously they had been able to deal only with the Crown, which had not only prevented the land being leased to the highest bidder, but had failed to secure decent prices and payment for the true value of their land. Furthermore, in handling their own leasing arrangements, Maori hoped to prevent the indiscriminate leasing of this valuable lake frontage, and also ensure that sufficient reservations for papakainga were secured elsewhere.

Amongst other blocks offered by Ngati Whakaue for settlement, one in particular has a unique story, and highlights the hapu's determination to improve the situation of their own people, and the faith they had in the work of the Stout-Ngata Commission.

Throughout their work, both Stout and Ngata constantly referred to the importance of establishing Maori on their own farms, and teaching them enough about farming pursuits so as they could profitably run their own land. Ngati Whakaue in particular considered such a proposal, and soon realised that it was necessary for their young people, if they were to engage in farming, to be properly trained. Young Maori required technical education, and instruction in practical farming. However, at the time of the Commission's sittings there appeared to be no opportunities for training Maori in the Rotorua district, and in particular there were very few farms in the locality.

Consequently, the Maori Mission Committee of the Presbyterian Church, with the sanction of the Anglican community at Rotorua, offered - if an area of land were available for the purpose of a farm - to provide instructors, and also to erect the necessary buildings and provide the capital. The Committee did not desire to have the land transferred to their ownership, but agreed that it should remain Maori land, with the Church maintaining the right to control and management the farming education. Following on from this suggestion, the Ngati Whakaue re-appeared before the Commission and made the following offer: 'If the said committee considers Tihiotonga Block suitable for the purpose of a farm, the Ngati Whakaue offer the portion of the said block to which they are entitled.'³⁴ Furthermore, if the Committee did not consider this block suitable, the hapu were willing to negotiate for land to be selected from nine various other blocks.

Although details of the scheme were still to be finalised by the time the Commission left the Thermal Districts, Stout and Ngata were given to understand that the scheme was undenominational. Indeed, one of the leading chiefs (unidentified in the

³² Statement handed to Commission by Ngati Whakaue, March 1908, Papers relating to the work of the Native Land Commission in the Thermal Districts, National Archives, MA 78 Item #12.

³³ AJHR 1908, G.-1N, p.3.

³⁴ Ibid., p.5.

evidence), who belonged to the Catholic Church, made the proposal before the Commission on behalf of Ngati Whakaue. Furthermore, any profits made from the farm, after payment of expenses, would go the owners according to their relative interests. Both the Commissioners were excited at such an offer, and considered that the 1950 acres at Tihiotonga described by land agents as open fern land of fair quality, was compact, readily accessible, and on the whole, 'most suitable for the purpose of a communal farm under the management of competent instructors.' Stout and Ngata commented that the offer from Ngati Whakaue was most generous. 'In fact', continued the Commissioners, 'this hapu has shown great willingness to adopt measures for their benefit, and in a progressive direction. We believe, however, that other hapu will emulate their example, and provide instruction for their youth on communal farms managed as the Tihiotonga farm is proposed to be managed...' ³⁵

Aside from the issues surrounding the Ngati Whakaue and the valuable tourist sites which lay on their land, the problems with the Whakarewarewa Reserve, and the desire of a head-strong government to have the wealth of the Rotorua region under Crown control, the presence of minerals in the area also created a unique problem for Stout and Ngata which they rarely encountered elsewhere. Many Maori approached the Commission with complaints that their land had been under-valued, and had not allowed for the presence of minerals such as gold and sulphur (!) Mining claims had been pegged off by Pakeha entrepreneurs, without Maori knowledge and sanction, and without full acknowledgment of the land's valuable resources. Maori owners felt that if their land was to be leased to mining companies and the like, then they should be fully compensated not only for the land, but also for the full value of the precious metals and minerals discovered on their block.

Timber was another particularly important commodity in the Rotorua District (and also in Northland³⁶) to be examined by the Commission, as marketable timber was valuable to the Government. The bulk of the land held by Maori in the Rotorua County contained a great deal of milling timber, and according to Stout the milling industry gave employment to large numbers of men and was perhaps as important to the Dominion as the sheep-farming industry. Stout felt that the timber should be used for milling purposes, and not destroyed to make way for settlement.

There were often a lot of timber and milling rights tied up with lands under consideration, and the Commissioners were required to come to terms with new land valuations which included the price of timber. Thus, Stout and Ngata set out to learn everything they could with regards to timber, terminology, felling, milling costs and the like, in order to understand the issues which surrounded timber land. For example, Stout received a letter from an Auckland timber merchant, Mr John Black, which explained to him the various methods of measuring timber and applying a price to the varying quality of logs.³⁷ Stout in turn, was then able to set his own standard with regards to ensuring that an adequate price in timber royalties was paid to Maori off whose land the timber was cut.

³⁵ Ibid., p.6.

³⁶ Timber was also particularly important in the Hokianga, the kauri growing in these lands solicited much attention from Pakeha timber companies. Once the kauri had been practically worked out, such companies turned their attention to other timber, such as rimu, matai, and kahikatea.

³⁷ Letter, John Black to Stout, 16 May 1908, Papers relating to the work of the Native Land Commission in the Thermal Districts, National Archives, MA 78 Item #12.

The land owned by the Ngati Whakaue has previously been described as of poor quality for farming, however on the other hand, they also owned separate parcels of forest land which were of good quality. Much of it contained milling timber which was considered the most valuable crop the land would ever grow. The Maori owners who appeared before the Commission at Rotorua attached great importance to the timber, and insisted upon its disposal on the most favourable terms before the land itself was leased or otherwise dealt with.³⁸

Timber was considered by some Maori as too valuable an asset to give away, and many wanted the areas containing marketable timber cut off the blocks they were willing to lease to Pakeha pastoralists. Of the blocks in the Rotorua County which contained valuable milling timber, some Maori owners asked that they be permitted to dispose of the timber themselves before the lands were cut up into farms for lease, or Maori occupation.

However, in the Rotorua area Maori generally agreed to throw open the timber for sale as long as fair and decent terms were reached for the timber, which would no doubt have fetched a tidy profit on the market. In most cases, the timber was acquired on the basis of paying a royalty, and options were secured over a number of blocks by a few companies which allowed a fixed period for cutting out the timber. According to research done by the Commission, a few informal agreements between Ngati Whakaue and Pakeha timber merchants were already in place at the time of the Commission. Maori were certainly not keen to sell the land the timber was on, however as with their prior arrangements they were willing to lease the land to Pakeha in the timber industry.

Some of these arrangements were brought before the Commission at Rotorua. It appears that agreements to lease timber areas in two blocks were entered into between the Rotorua Mountain Rimu Company and some of the Maori owners. The company had been operating for some time, and had paid certain sums by way of royalty to the owners, had erected a mill, and constructed tramways. The agreement and certain differences between the parties were submitted to the Commission for consideration. Furthermore, it was also brought to Stout and Ngata's notice that there was a proposal to lease timber areas on the Tuatara and Rotoma blocks in the Rotorua County to three Maori, themselves owners in the blocks. Upon being questioned at the Commission sittings, the owners were unanimous in asking that the proposal be given effect to. The proposed lessees told the Commission that they had some capital to invest in the erection of the necessary mill and construction of roads and access-ways. They were also willing to cut the timber in sections, so as to utilise the rest of the land for pastoral purposes.³⁹

As a result of the interest surrounding the timber issue, Stout met the Maori Land Board in the Rotorua district about timber leases on certain Maori lands in the county. The Commission needed to see the full legal leases to establish if the land and timber had been rightfully leased, and to see if the timber industry was going to be a profitable venture for Maori. Of the timber agreements made between Pakeha and

³⁸ AJHR 1908, G.-1E, p.2.

³⁹ Ibid., pp.2-3.

Maori in the Thermal Districts, most were considered satisfactory by Stout and Ngata, with the application of certain amendments.

Thus, the Rotorua district was one region which can be singled out with regards to the Commission because of its unique circumstances. The Government in particular wanted Stout and Ngata to pay special attention paid to this district - a district rich in mineral deposits, timber and tourism prospects. Maori concerns related not only to the utilisation of their land, but also to ensuring that as the owners they received a suitable cut of the profits from these resources.

A further example where the Commission was asked to comment on issues relating specifically to timber, relates to the Ngati Tuwharetoa and an agreement they had made with a Pakeha company for the sale of timber growing on their lands, and for the construction of a railway through the same lands. The agreement in question displays an example of astute business sense on the part of the Maori land-owners, and looked to protect Ngati Tuwharetoa ownership of the land whilst providing them with a viable source of revenue from the resources, namely timber, on the land. It was the Commission's role to assess the legality of the agreement, and consider whether or not Government should aid the speedy execution of the agreement.

The Ngati Tuwharetoa people owned a very large area of land at the time.

[See Map Two] The agreement in question involved 134,500 acres; there was milling timber growing on 82,000 acres of it. In 1906 an agreement was entered into with the Tongariro Timber Company and signed by Maori owners of the area, whereby the company selected an area of 40,160 acres which could be profitably worked and milled. Of the residue area, only about 19,285 acres could have been worked at a profit, provided that a railway was constructed for access and the demand for timber increased. The balance, about 75,000 acres, did not contain the necessary milling timber or was situated in inaccessible places. In January 1908, an Order in Council under the *Public Works Act* was issued, cutting off a portion of the aforesaid area 'to enable the land to be sold for £1 per acre for the purposes of constructing a railway,'⁴⁰

Once the agreement had been signed and the Order in Council issued, the agreement was then brought before the Maniapoto-Tuwharetoa District Maori Land Board only months before the Commission considered the issue. At the time of Stout and Ngata's investigations, the Board had recommended, upon the addition of certain modifications, that the agreement for the sale of timber on Ngati Tuwharetoa blocks to the Tongariro Timber Company be approved. Both the company and Maori owners had assented to these modifications.

The Commission thus held a sitting at Rotorua on 3 and 4 September 1908, to discuss the timber/railway agreement which had been signed by Ngati Tuwharetoa and the Tongariro Timber Company. This hearing differed somewhat from others which Stout and Ngata had conducted, and was an example of a smaller, more private meeting conducted between the Commissioners and one or two other interested parties.

Only a handful of people attended the sitting, and the Ngati Tuwharetoa people were represented by their one paramount leader, Te Heuheu Tukino, in the interests of

⁴⁰ AJHR 1908, G.-1T, p.1.

tribal development and ownership. Te Heuheu was accompanied by Lawrence Grace, who was closely connected by marriage to the tribe and was also a lawyer. The Maori were officially represented by counsel Mr Blair, who appeared on behalf of an absent Mr Skerrett. Individual owners and hapu did not attend. The Tongariro Timber Company was represented by their counsel, Mr D.M. Findlay, and the Company's manager Mr Atkinson also attended. Numbers at the sitting thus totalled seven persons, including Stout and Ngata.

During proceedings, the Commissioners were given to understand that no objections had been raised by any of the Maori owners to the agreement, nor had any refused to sign it. The only reason why some of the signatures had not been obtained was on account of the distance and inaccessibility of some owners' homes, or that successors had not yet been appointed to some of the interests.⁴¹

The agreement was then examined by the Commission, which was to consider and advise upon further possible amendments to the original agreements. A summary of the main terms of the agreement,⁴² as modified by the Land Board, consented to by both parties, and examined by the Stout-Ngata Commission, is as follows:-

- (a) Ngati Tuwharetoa agreed to sell the timber on 40,180 acres of their land. [As defined in Map Two]
- (b) The Tongariro Timber Company to have the option to purchase the 19,285 acres milling timber in the residue area. The price to be the same as that paid per acre for the timber on the 40,180 acres.
- (c) the prices paid by the company to the vendors for the taken, in the first fifteen years were set at £10 per acre, and after fifty years the price was to have risen to £100 per acre. For the use of the land, the company was pay £2500 per annum to the Maori vendors, which was to increase to £5000 per annum.
- (d) the moneys payable by the company to the Maori vendors in terms of this agreement were to be paid to the Maniapoto-Tuwharetoa District Maori Land Board. If any payments were overdue, further timber was not to be removed.
- (e) Of the moneys received by the Board, it was to retain five percent to be spent on:-
 - the costs of completing the title and surveys,
 - towards reforestation
 - towards paying for improving any portions of the said lands, such as clearing, fencing, grassing, and purchasing stock,
 - towards paying rates and taxes, and
 - towards the construction of roads as means of access to any property of the owners.
- (f) the company had no right to the land save only to the use of it so far as it was necessary to have the timber cut and removed.
- (g) the company was to construct a railway from Kakahi Station, on the North Island Main Trunk Line, to Lake Taupo. [See proposed line in Map Two] The Maori owners were to sell the proposed area for the railway for £1 per acre.
- (h) the railway was to be fully complete and operational within five years of the period of the acquisition by the company of the title to timber, and was to be constructed in a 'substantial' manner. A list of requirements to be observed in such construction, such as the materials to be used, was included in the terms of the agreement.

⁴¹ Ibid., p.2.

⁴² A copy of the original agreement, complete with modifications as suggested by the Maniapoto-Tuwharetoa District Maori Land Board, can be found in the AJHRs. See Appendix B, AJHR 1908, G.-1T, pp.12-17.

(i) Maori owners were to have preference of employment in the timber industry.

An aspect of this agreement appears to be the apparently favourable terms for Ngati Tuwharetoa, who had a history of shrewd economic management and entering into deals that were particularly beneficial to the tribe.

During the sittings, the Commissioners spoke of the advantage of the railway to be constructed to the Maori owners and suggested it would connect them with the North Island Main Trunk Line and give the Maori an easy mode of access to and from their kainga and property.⁴³ By opening up the previously isolated lands surrounding Lake Taupo, the railway would also ensure an increase in the value of Tuwharetoa lands. After two days, the sittings were complete, and Stout and Ngata then had to write their report and recommendations, in order that a final agreement between the tribe and company could be legalised, signed and documented.

The two main questions for the Commissioners' consideration were:

- (1) Was this a fair and equitable agreement so far as the Maori owners were concerned?
- (2) Was it an agreement such that it should be approved in the public interest?⁴⁴

These two questions highlight the issues which surrounded timber and the fact that it grew on Maori lands. Maori recognised the value of timber and were eager to enter into milling and cutting agreements with Pakeha timber merchants. However, they also wanted to ensure that as the owners of this valuable resource they were given fair consideration and remuneration for the timber. It was the Commission's task to examine these various agreements, and ensure that they were both financially sound, and a fair deal for Maori. The Commission also wanted to encourage the fledgling timber industry as long as certain measures were taken that secured the rights of Maori as owners of the timber.

EAST COAST ISSUES

The workings of the Stout-Ngata Commission in the East Coast region provide us with another case study, as the issues here were unique. The East Coast stood apart from other areas due to its history of being administered as trust lands, where ownership was kept in Maori hands yet management was placed in the hands of Crown-appointed receivers or trustees. Maori there had suffered as the result of constant litigation which resulted in their losing control of nearly 400,000 acres of land. The East Coast was a geographically isolated area, yet unlike many lands throughout the North Island had been the subject of years of Crown intervention, and the Commission was seen as one more mechanism of government to pass through the area.

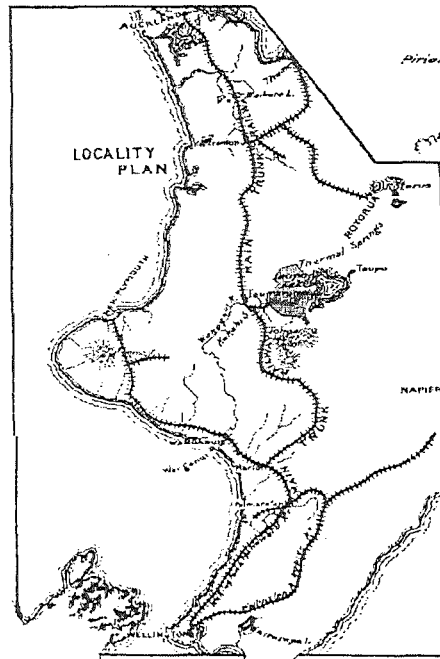
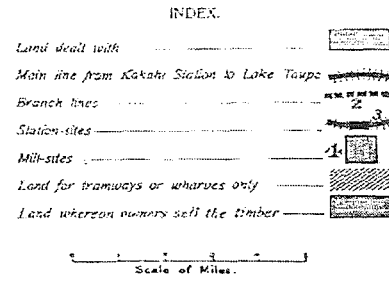
However, the Waiapu County on the East Coast tells a different story. Not only was it the county of Commissioner Apirana Ngata who had spent much time instigating the progress of his district, but Ngati Porou had also led the way in successful farming

⁴³ AJHR 1908, G.-1T, p.4.

⁴⁴ Ibid., The considerations and answers of the Commission in respect to this agreement between Ngati Tuwharetoa and a timber company was reported on 11 September 1908 as AJHR 1908, G.-1T. See Chapter Six, pp.254-255. for Stout and Ngata's recommendations, and how they discussed the issue of timber in general.

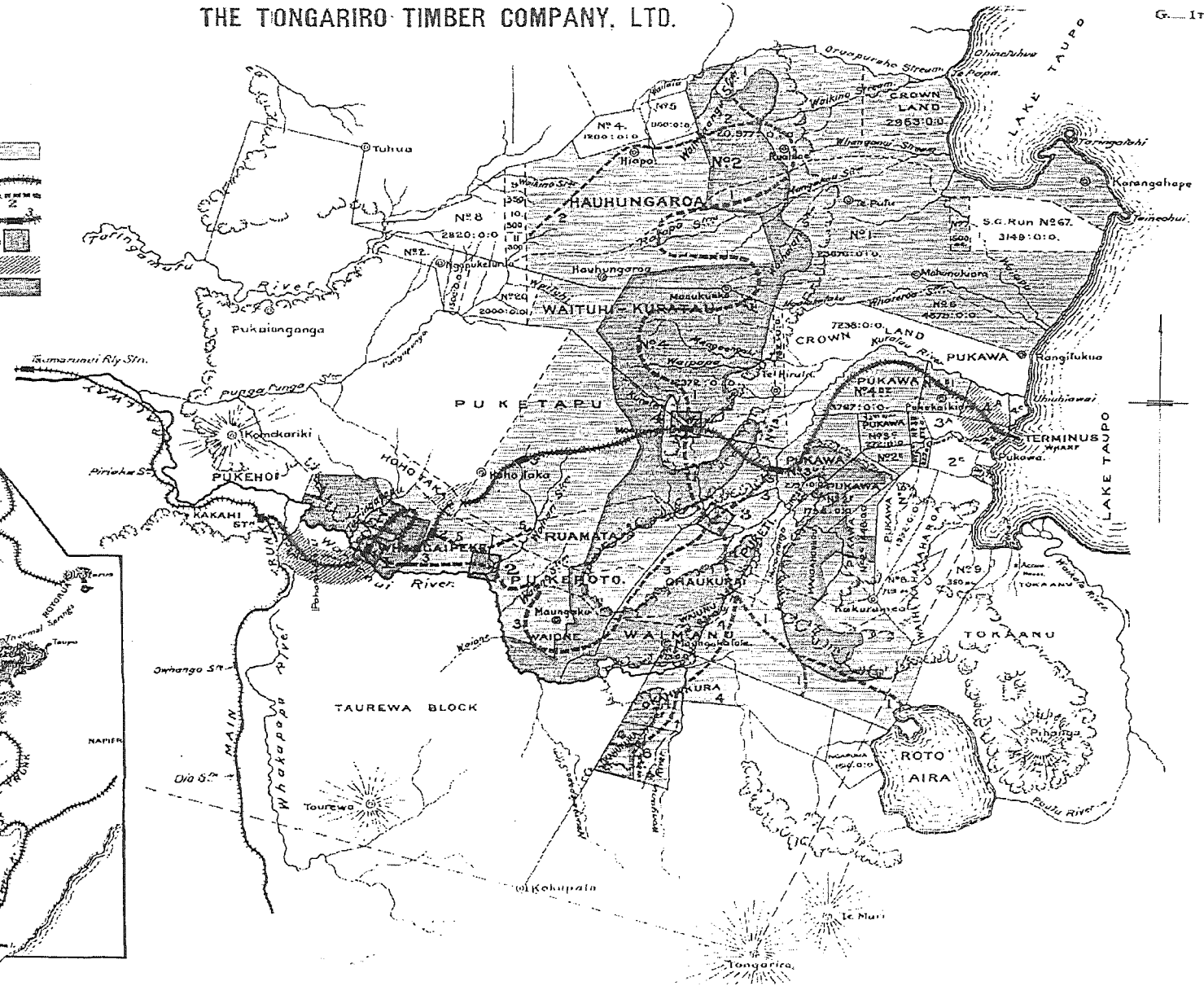
THE TONGARIRO TIMBER COMPANY, LTD.

G. 17.



1874-1876

Map Two



ventures operating primarily under the system of incorporation. People in this area had seemingly done what the Government had been demanding of them, and had 'profitably occupied' their lands. What more could be asked of local Maori, and what role, if any, could the Commission play with regards to opening up land for Pakeha settlement?

From 9-12 December 1907, a sitting of the Stout-Ngata Commission was held on the marae at Waioamatatini, near Port Awanui, and dealt with lands of Ngati Porou in the Waiapu County. The Commission later sat at Waipiro Bay and Tokomaru Bay in order to deal with lands in the southern portion of the county. The approximate area investigated by the Commission during this time extended from Waipiro Station to Te Araroa, and covered 127,217 acres of land. [See Map Three] The remaining lands in the Waiapu County were to be subject to a later investigation by Ngata alone.

The area of Waiapu County is approximately 705,228 acres. Of this area 150,000 acres had been acquired by the Crown, and 172,000 acres sold to Pakeha, making a total of 322,000 acres of freehold land parted with by Ngati Porou. At the time of the Commission, Maori owned roughly 380,000 acres of which 113,025 acres was under lease to Pakeha. The first lands were obtained from Maori primarily through the influence of Sir Donald McLean, the Government Land Purchase Officer at the time. Between 1876 and 1893, large areas of these lands bought by the Crown were reserved from sale, and instead leased to Pakeha. They comprised the well-known Waipiro, Tuparoa, Taoroa and Tokomaru leaseholds.⁴⁵

At Waioamatatini, both Stout and Ngata accompanied by the Commission's secretary and interpreter were present at this meeting with Ngati Porou, and over one hundred Maori, representative of the people from Tokomaru to Waiapu, filled the meeting house.

Ngati Porou, as previously mentioned, warmly welcomed the Commission to their district. They told Stout and Ngata that for three years the iwi had petitioned Parliament for the return of scattered portions of blocks purchased by government land agents, but they only answer they got was that the Government would consider the matter.⁴⁶ Therefore it was a great pleasure for them, they said, to have the Commission present amongst them, to point out the best way for Maori to farm their lands to the greatest advantage, 'and to show them the way to go ahead and keep pace with their Pakeha brother.'

For Ngata, this was his home county, and was important to him personally. Before the Commission formally began hearing evidence at its Waioamatatini sitting, Ngata, having what he described as 'a close intimacy with the land dealings in the district',

⁴⁵ At the time of the Commission's investigations, these leaseholds were due to revert to the Maori owners in six or seven years.

⁴⁶ Indeed, hapu and individual members of Ngati Porou frequently petitioned Parliament throughout 1905-1907, and the following are just a few examples of the many petitions:
 Petition No. 116, 1905, Petition of Hapeta Te Pakaru and 158 Others of East Coast, **AJHR 1905**, I.-3, p.9.
 Petition No. 466, 1905, Petition of Hohepa Hawira and 196 Others of East Coast, **AJHR 1905**, I.-3.
 Petition No. 260, 1905, Petition of H.P. Waaka and 8 Others of Te Muriwai, Poverty Bay, **AJHR 1906**, I.-3, p.4.
 Petition No. 595, 1906, Petition of Waata Kunaiti and others of Waihou Block, Poverty Bay, **AJHR 1906**, I.-3.
 Petition No. 544, 1907, Petition of Taiawhio Te Tau and 2 Others of Whareama Block, East Coast, **AJHR 1907**, I.-3.

delivered an address to all those gathered at the meeting house. In the course of his speech, Ngata gave a brief historical sketch of the position of the lands since the 1870s, and also of past land transactions in the Waiapu County. The following is an account of the details as given by Ngata.⁴⁷

It was not until 1873 that the Native Land Court came to the Waiapu district, and the first attempts were made at individualising the ownership of Maori lands, with the new title being called a "memorial of ownership". Ngati Porou never had the misfortune in the Waiapu district as they had in Wairoa and Hawkes Bay, said Ngata, of practically handing over to trustees who were nominally owners, the power to sell, lease, or otherwise dispose of the tribal lands as they thought fit.⁴⁸ Rather, under the *Native Lands Act 1873*, which radically altered the whole alienation procedure by attempting totally to individualise Maori landowners, all owners had to be listed on the title and their signatures obtained before a sale or lease could be executed.⁴⁹ During the 1870s there was a great deal of hesitation on the part of Maori to come to the Land Court for the titles to their lands, and some Poverty Bay Maori tried to bypass the Court and sell or lease land through their own tribal institutions.⁵⁰ Thus, the first years of Pakeha settlement and Land Court business only marginally increased the freehold area in the East Coast.

However, as the decade progressed, Oliver believes that Ngati Porou put land through the Land Court willingly and with a fair degree of tribal cohesion, partly to sell and partly to lease. The process was an amiable one, and as Oliver writes, 'there is little evidence of the demoralisation that accompanied Land Court attendance elsewhere in New Zealand.'⁵¹ In this way, a considerable area of land in the northern part of the region began its progress through the Land Court, and with the exception of a few small blocks the titles were all ascertained by 1888. By the end of the 1880s

⁴⁷ A draft copy of the address given by Ngata at the Native Land Commission sitting at Waiomatatini on 9 December 1907 was found amongst the Papers relating to the work of the Native Land Commission in the East Coast, National Archives, MA 78 Item #10.

The address was also printed in its final copy as Appendix I in *AJHR 1908*, G.-i, pp.15-16., and after the address was delivered it was reported in the newspaper, and quoted in large sections, See *The Poverty Bay Herald*, 10 December 1907.

⁴⁸ Ngata is referring here to the *Native Lands Act 1865*, and the sorts of titles issued under it, whereby only ten owners had to be listed on the title. Under the 1865 Act the Native Land Court was established, and was supposed to subdivide blocks with many owners into smaller portion with no more than ten owners to each. Chief Judge Fenton arbitrarily adopted the practice of awarding whole blocks, unsubdivided, to ten of the principal owners. Moreover they were named as absolute owners, not as trustees. Maori did not then realise that the ten nominated owners would soon be drawn into 'mortgaging or selling the patrimony of their hapu' who, because they were not listed as legal owners, had no means of legal redress. (Ward, *A Show of Justice*, 1995, p.213.) The 1865 Act also abolished the crown's pre-emptive right, so allowing private purchases of Maori land again. The Maori people were consequently exposed to a thirty-year period during which a 'predatory horde of storekeepers, grog-sellers, surveyors, lawyers, land agents, and money-lenders made advances to rival groups of Maori claimants to land, pressed the claim of their faction in the Court, and recouped the costs in land.' Rightful Maori owners could not avoid litigation and expensive surveys if false claims were put forward, since Fenton insisted that judgements be based only upon evidence presented before the Native Land Court. (Ward, pp.185-186.)

⁴⁹ George Asher and David Naulls, *Maori Land*, Planning Paper No. 29, Wellington, March 1987, Appendix., and W.H. Oliver, *Challenge and Response: a Study of the Development of the Gisborne East Coast Region*, Gisborne, 1971, pp.99-100.

⁵⁰ Oliver, *Challenge and Response*, p.103.

⁵¹ *Ibid.*, pp.107-108.

there was a solid belt of coastal and 'near-inland' blocks held by Pakeha on leasehold, together with a few held on freehold and a few retained for Maori use.⁵² Although Ngati Porou seemed happy to put their land through the Court, it was mostly leased, and the iwi thus retained ownership of much of the East Coast.

During this period the first endeavours were made by Maori to carry out sheep-farming on some of their lands. These attempts were crude, and necessary operations like dipping were neglected. Consequently, the prevalence of scab in the mid-1870s brought down the Government Stock Inspector, who ordered the destruction of all the flocks owned by Maori. This outbreak of scab stopped farming operations for a time, thus ending the first attempt by Maori 'to follow in the ways of the Pakeha.' This setback taken in conjunction with the fact that their titles were passing through the Native Land Court, and that Pakeha and Government agents were scouring the country buying or leasing land, diverted the energies of the Maori people for a time towards litigation, and towards the 'rapid conversion of their lands into money' [through either the leasing or selling of their lands] which was generally dissipated at the nearest publichouse.⁵³

'However,' commented Ngata, 'they were never so foolish as to part with the freehold of their lands near the coast.' These were leased, and the country towards the back of Tokomaru, Waipiro, and Tuparoa was all sold and willingly parted with. 'I suppose', noted Ngata, 'that if the chiefs at that time had looked upon themselves as the trustees for the members of the tribe, they could not have gone about the matter better than they did - to get rid of the lands in the interior and keep the freehold to lands along the Coast.'⁵⁴

Up until 1889, there were no more attempts by Maori in the district to farm any of their lands, and instead they chose to occupy them in 'the usual Maori way'. When Waipiro Station, which consisted chiefly of Maori lands leased to J.N. Williams⁵⁵, commenced farming operations in 1883, local Maori watched the successful operations of Williams for several years. He illustrated what farming could be done on Maori lands and how to manage stock, and inspired the people to try again. Fifteen years had passed since the discovery of 'scab' before Maori again realised the possibility of turning their lands to some profit. Despite the low price of wool, and the difficulty of obtaining finance, a fresh start using more modern farming techniques of the day was made in 1889, and by the end of that year Maori sheep-farming had begun again in the district.

Fortunately, most of the blocks by the coast were open lands under natural pasture. Such favourable lands were thus selected, and Ngati Porou entered into the industry

⁵² Ibid., p.108., and also AJHR 1908, G.-i, p.16.

⁵³ AJHR 1908, G.-i, p.16.

⁵⁴ Ngata's historical sketch in its original draft form, p.2., Papers relating to the work of the Native Land Commission in the East Coast, National Archives, MA 78 Item #10. This comment was taken out of the final copy as printed in AJHR 1908, G.-i.

⁵⁵ J.N. Williams was a member of the famous Williams family, who had settled early on the East Coast. See the following page which discusses how the Williams family greatly helped Maori not only by teaching them the practicalities of farming, but helping them financially to buy capital. The way in which the Williams helped Maori, was how Ngata had envisaged the Government aiding Maori, and was an example of the aid Ngata had been repeatedly asking the Government to give the people. If the State had followed the example of the Williams family, then perhaps other areas of Maori land would have got off the ground in terms of farming.

anew, farming in co-operation on tribal lands. The only question at first was how to obtain stock. One Maori station, which had since developed into one of the best-paying properties on the East Coast, began when the owners of the block took a bushfelling contract for Pakeha and invested the proceeds in the purchase of sheep.

There was no great amount of litigation to engage the attention of the people between 1888 and 1894, and up until 1898, although there were no extensive improvements, small beginnings were made on many blocks, and the pastoral industry grew steadily if slowly. Financial difficulties stood in the way of rapid development. In 1898/99 the system of management and control was reorganised along the lines of the incorporated blocks. Although not formally incorporated, the system rested broadly on the co-operation of the owners, who were willing to give the general direction of improvements to a committee, who in turn delegated the work to managers who had experience in farming sheep, and had often been taught by local Pakeha.⁵⁶ This made it possible for arrangements to be made to secure advances on the stock.

The Williams family provided the greater part of the capital for the Maori farms, and Ngata felt that without their assistance the great progress made by Maori in Waiapu during this period would not have been possible. Maori also received great assistance from local storekeepers, and many of their Pakeha neighbours gave them frequent and sound advice in the management and handling of their flocks. From 1899 until 1908 and the time of the Commission, stock on Maori farms had doubled, whilst the land brought under cultivation had more than doubled. Maori had steadily acquired experience in sheep-farming and stock-raising, and vast improvements had been made in the quality of their sheep.⁵⁷

In 1892 the *Native Land Purchase Act* was passed for the purpose of purchasing Maori lands for settlement under the provisions of the *Land Act 1892*. Consequently, between 1892 and 1894 many Waiapu blocks were investigated by the Native Land Court, and titles to the land in the Waiapu district became the subject of investigation. Almost as soon as any block passed through the Court it was bought up by, or sold to, the Government. Within eighteen months upwards of 30,000 acres freshly investigated by the Native Land Court, were purchased by Crown Lands Purchase Officers for the Government. Ngata seems to be criticising the Government agents' pressure here, and deploring the haste with which they purchased the newly-titled lands. However, so long as the Crown was buying the inland blocks, Ngata believed that Ngati Porou as a whole raised no objections. Although there were some who doubted the wisdom of parting so readily with these bush blocks at what would later appear to be low prices.

However, when the Land Purchase officers began purchasing blocks under Maori occupation and where Ngati Porou were attempting to farm the land, there was much resentment felt. Maori believed this to be a departure from Government policy, which had been to acquire only the 'waste lands' of the Maori, and not lands occupied by them. Consequently, all papatipu lands which were before the Native Land Court in 1894 and awaiting hearing were withdrawn, and the result was that from 1894 to 1900, 170,000 acres of papatipu land was withheld from the Native Land Court due to

⁵⁶ For example, the Williams family invested much time in teaching Maori how to farm.

⁵⁷ AJHR 1908, G.-i, p.16.

the concerted action of the people.⁵⁸ These lands were kept out of the jurisdiction of the Court until 1902 when an understanding was reached with the Seddon Government, which guaranteed that no further purchases of Maori land would be carried out by the Crown in the Waiapu and wider East Coast district. The acres of papatipu land were then allowed to go before the Court.

From 1902 to 1905 another attempt at investigating the titles to these lands was made under the *Maori Lands Administration Act 1900*.⁵⁹ The area actually investigated and confirmed by the local Land Council (which had been created by the Act), was 22,000 acres, and the titles to these blocks were put on the Land Court's register. Eighty-seven thousand acres were also dealt with by the block committees, but owing to what Ngata described as a 'technical defect in the Council's confirming order'⁶⁰, the Appellate Court directed the Native Land Court to re-investigate these titles. In general, most of these blocks were to the north of Waiapu, and although they were all papatipu lands, a good many acres were under Maori occupation at the time. The people had not only improved these areas but had stocked them with sheep and cattle as well.

Therefore, lands owned by Ngati Porou of the Waiapu County at the time the Commission began its work on the East Coast included:

- acres of uninvestigated papatipu lands for which there were no titles - the bulk of the unoccupied lands were papatipu.
- 60,000 acres in the area to the south of Waiapu; to which the titles had been ascertained by Maori, which were reserved from sale or lease to Pakeha, and all of which was under Maori occupation. Over two-thirds of this area was fully improved, fenced and subdivided.
- 200,000 acres leased to Pakeha, for the great majority of which the lease agreements were due to lapse in the next six or seven years from the time of the Commission; and 403,000 acres owned by Maori themselves.
- Several blocks consisting of 12,000 acres had also been vested in the Tairāwhiti Maori Land Board for Pakeha settlement, and some small subdivisions of these were to come before the Commission to be dealt with.⁶¹

There was only a small area of land the title to which had been ascertained which was to be opened for settlement.

At the conclusion of this speech, Ngata explained that as regards the Commission's recommendations in the Waiapu district, Sir Robert Stout would practically have to

⁵⁸ According to Oliver, in the first few years of the twentieth century, land became a point of lasting tensions between Maori and Pakeha, in a shape which it had not taken on before. In the early 1890s, the Liberal Government returned in a very big way to the business of land purchase for Pakeha settlement. In 1894 sixteen Gisborne and nine Waiapu blocks were partially acquired by the state. Over the rest of the decade, in a district stretching from East Cape to Wairoa, as many as 141 blocks were acquired completely by the Crown. Thus, when the Crown starting encroaching on Maori occupied lands, and blocks which they were farming, at the turn of the century the lands 'dried up' as Ngati Porou withheld their lands from the market. (Oliver, *Challenge and Response*, pp.179-180.)

⁵⁹ Refer back to discussion of the 1900 Act in Chapter One, pp.24-28.

⁶⁰ See Ngata's historical sketch, p.3., Papers relating to the work of the Native Land Commission in the East Coast, National Archives, MA 78 Item #10.

⁶¹ Details of the Historical Sketch reported in *The Poverty Bay Herald*, 10 December 1907.

exercise his own independent judgement of the work being done in the district and of the future disposition of its lands. Ngata himself said that he had 'great diffidence' in joining with Stout in the investigations of these lands and expressing his own views as to what should be done in the future, because he [Ngata] had been largely responsible for a good deal of the industrial progress which had been made in the area in the last ten years. It would be for Stout to say what should be done with them in the future.

However, despite what he had just said, Ngata was giving Stout a lead as to what he should be looking at, and believed that the great question for inquiry by the Commission in the East Coast was whether the people by their past actions had justified themselves in claiming a large part of the land for their own use in the future. If Maori were to be entitled to a large portion of this land depended upon the view the Commission took as to whether the settlement of their lands up to the present was satisfactory or not. Ngata lamented that a number of important chiefs were unable to see the initiation of the Stout-Ngata Commission (because they had died), and the new regime that it introduced of dealing with Maori lands in Waiapu. He added that there were 200 young members of the iwi anxious to farm the land, and roughly estimated that it would require 65,000 to 70,000 acres to met their requirements.

Upon being interviewed by the media about the Commission's work on the East Coast, Ngata said that there was not a great quantity of land on the Coast for the Commission to deal with, as the Maori were opening most of it up for settlement themselves.⁶² In other words, he tried to limit the level of government interference as much as possible, including the investigations of his own Commission. He strongly impressed upon Stout the success of Maori farming on the East Coast, and highlighted that there were very few lands lying unoccupied in this region.

There is a real hint here of the overall dilemma Ngata faced on this Commission, and his comments show how stuck he was. Having travelled to other districts of the North Island, where he told Maori that they would either need to farm their lands or open them up for Pakeha settlement, when he got to his own people he wanted to help them keep their land, and suggested to Stout, the press and other Pakeha present at the sitting that there would be no lands available for general settlement. Furthermore, his dilemma is also highlighted by his fascinating speech; for although he was appointed to his position on the Commission by the Government, his address was highly critical of the same Government's policies. Ngata must have recognised the situation he was in when he suggested that Stout would have to make an independent judgement on the future disposition of Ngati Porou lands, because of Ngata's vested interest in the region. Nevertheless, Ngata did all he could to ensure Stout witnessed the successful achievements of the Maori farms and incorporations, and even took Stout to view his own station. Ngata wanted Stout to see Ngati Porou's situation as he did, in the hope that Stout would recommend the lands be kept in Maori occupation.

The proceedings of the Commission began straight after Ngata's speech, and during this time, the Commission also heard from members of the iwi, including Pene Hehei, Niho Kopuka, Hakarara Mauhini, Pene Tuhaka, and Henare Mahuka, who raised the issue of what the people desired to see happen with their land in the future. Their

⁶² King Country Chronicle, 15 February 1907.

concerns, on the East Coast as elsewhere, included their view that it was successive governments which had destroyed their lands over the years.

Furthermore, as in the Rotorua District, Ngati Porou were in a quandary about their papatipu/uninvestigated lands which were being worked in the dark, because the owners or interests had not been established. Their chief concern was that to commence farming a portion of such papatipu land could see other claimants step in and demand that the improved area was theirs to farm. An example was given by one owner, who had planted rows of his own kumara, only to see another step in and 'help himself when the kumara were ripe, declaring the land and its crops were his.'⁶³ Consequently, people asked the Commission to send the Native Land Court 'that would come and stay, not one month and then run away like other Courts, but a year...until their [Ngati Porou] lands were fixed up.'⁶⁴

Owing to the success of Ngati Porou's incorporated farming ventures at the turn of the century, such efforts had awakened the interest of the people, and now at the time of the Commission, there was a clamour for land to farm. Maori on the East Coast wished to maintain the bulk of their lands for their own use and occupation. Up until the time of the Commission their methods of incorporation and communal farming had proven most successful, and the people wished to be given the chance to continue such progress on their own lands. Their great desire was that the rest of their land, some 60,000 acres, should be left to them as it was the wish of all to go farming. If their remaining lands were divided up they would not have 500 acres apiece, and for many this was the only land they had left. They also desired that no purchases should be made, and if there was to be any land sold it should only be by the unanimous wish of the whole tribe, not of a single person. Ngati Porou had taken on the realities of farming, and although the Government had decided that 50 acres per person was more than enough for Maori, the people knew that a much larger area such as 500 acres was necessary for the operation of a viable farm.

More specifically, with regards to a small block amongst the acres of papatipu land, one family was particularly interested in the area. Known as the Pakihi Block, this was 8555 acres of papatipu land which lay right on the coast line of the East Cape. The Kohere family were then running 800 sheep and 30 head of cattle, and required 2000-3000 acres for themselves. Henare Kohere explained to the Commission that the owners wished to clear the land and utilise it to the full extent of their interests. They were improving the land as fast as they could, and wished to keep it as a permanent home and farm. However, these wishes were tempered by the matter of ownership which had not been decided by the Native Land Court.⁶⁵

In reply to both this information given by those of the Ngati Porou present at the sitting, and Ngata's earlier address, Stout thanked the Maori for the warm welcome he had received. He told them that he had often heard of the Waiapu district both from Ngata himself, and elders of the district, and had heard much about their experimental farming. Upon viewing the district, Stout believed that the East Coast was a district 'splendidly endowed by Nature', and Maori had the chance to make it

⁶³ Reported by Poverty Bay Herald, 12 December 1907.

⁶⁴ Press report of the Commission sittings and proceedings at Waiomatatini, Poverty Bay Herald, 10 December 1907.

⁶⁵ Poverty Bay Herald, 12 December 1907.

one of the finest farmed lands in the Dominion.⁶⁶ Stout believed that Maori farming and progress on the East Coast was more advanced than in any other North Island areas, and he considered that the Maori there were more anxious to succeed. He felt that the people there had set an example to the rest of New Zealand's Maori.

Turning to the future, Stout told the people that the Maoris' only hope 'rested in their becoming a farming people.' No race [sic] could live in idleness; it must have some occupation.'⁶⁷ 'Maori were not bred to an indoor life, and farming and country life was certainly the best life for them...' continued Stout. As the Waiapu district was well-suited to pastoral farming, Stout warned the people that it would be a curse to sell their lands and spend the money 'recklessly'. 'Even if you leave your lands and live on the rents that is also injurious. No people can live in idleness and remain strong...' lectured the Chairman of the Commission. Such a statement expressed a long-term Pakeha belief.

It thus seems that Stout was encouraging Maori to keep their lands under Maori occupation and farm it, rather than give it up for sale. This would appear to be contradictory to government intentions at the time, to encourage Maori to sell their lands so as it could be 'profitably' farmed by Pakeha settlers. Stout was very much his own person, and would certainly have disliked the notion of his opinions being made to conform with the Government's line of thinking. The Government then would have been somewhat helpless, as they witnessed the man they had appointed to the job advising and offering recommendations to East Coast Maori, seemingly in direct contrast with their own policy.

Stout continued his speech on a more paternalistic note and moved to an issue unconnected with the work of the Commission. The Temperance Union was particularly strong at this time, and its ideals had been vigorously taken up by many middle-class Pakeha, who were worried about the increasing moral disorder in society. The temperance debate was especially important to Stout, who had declared a moral battle against the vices of alcoholism and drinking. During his speech to Ngati Porou (which became more of a lecture or sermon!), he noted that he was glad that the people who attended the meeting of the Commission had all been sober! 'There are three hotels in this small Maori district,' continued Sir Robert, 'and they are mainly maintained by Maoris [sic], one I believe wholly so. Well that is a great disgrace.'⁶⁸ Stout hoped the locals would be able to stop all their drinking, for he believed that to depend upon alcohol would only see the destruction of the Maori people.

Sir Robert Stout concluded his address to those at the Waiomatatini marae in a typically charismatic style, and at the same time - although he may have been feeling very much in the minority among Ngati Porou - he made it clear who was in charge of the Commission! Obviously pleased at what he had seen and heard of the Ngati Porou's advances in farming on the East Coast, Stout seemed heartened by the progress Maori had shown themselves able to make. He wished the people the best of

⁶⁶ Interview with Sir Robert Stout, *Gisborne Times*, 11 December 1907.

⁶⁷ Report of Stout's speech to those present at Waiomatatini sitting, *The Poverty Bay Herald*, 10 December 1907. Stout regularly gave this similar speech throughout the Commission's travels around the North Island.

⁶⁸ Speech by Stout to those attending Commission's sitting, as reported in the *Poverty Bay Herald*, 13 December 1907.

luck in their farming endeavours, and hoped that they would not only be a fine example to the rest of their people, but would also show Pakeha what the Maori could do. In an unusual departure from his somewhat reserved and non-complimentary style, Stout lavished praise upon the people:

'You live in a beautiful country...I have never seen more beautiful pastoral country than the land before us. The soil is much better than in many parts of New Zealand. The country is beautiful to look at. There are plenty of streams of water, fine air, and skies, and you are a strong and fine people. Now it will be a great disgrace to you if you do not make this one of the finest districts in New Zealand. You have everything at hand to help you, a beautiful climate and soil. It almost only needs looking at to produce anything. (Laughter from the audience) I thank you for your kindness to me on my coming here and I hope if life and health is permitted me that this will not be the last time I shall visit your district.' (Loud applause).⁶⁹

Such a finale must have been music to the ears of Stout's partner Ngata, who had worked so hard for the advancement of Ngati Porou, and desperately wanted to see a stop to any further interference by the Crown in the region.

On the second day of the Commission's stop at Waioamatatini and Awanui, the story of how Maori took up farming was further related to the Commission by Pene Hehei, who as manager of the Reporua Co-operative farm near Awanui, had plenty of insight into the history of this pioneering Maori station and its system of incorporation. The property consisted of 4733 acres, and included the Reporua No. 3., Ahikouka No. 2., Kurau B., and Wairoa 2B blocks. In 1889, a collection was taken to buy stock, and a committee was appointed by the various Maori owners to run the property. The committee had managed the business ever since, paying out the profits to the respective owners each year.

The property had been fenced and sub-divided, with a few bush reserves left for scenic purposes, and labour was supplied by local Maori and generally by the owners or their families. A woolshed had also been erected, with the 'latest Wolseley sheep-shearing machines', and the stock on the land was reputed to be equal to anything one could find on Pakeha farms. All the details of the farming operations were carried out by an appointed manager who was paid a salary by the Committee. The Committee itself was responsible for the general policy of the improvements and supervision of the finances, and had the sole authority for declaring a dividend.

A visit of inspection was paid by the members of the Commission to this and the adjoining farm, and quite bore out the statements of Pene Hehei. Having witnessed the success of Pakeha farmers, Maori had decided to try farming themselves. The result was the Reporua Station which had since been seen as the 'ladder and foundation' of all the other Maori farms on the East Coast.⁷⁰ It was also a successful example of the incorporation system which had become popular on the East Coast, where often numerous Maori landowners joined forces, and elected one committee of 2-7 persons to manage all the properties. This system preserved community lands, but also allowed for and rewarded individual exertion. The union of capital and labour

⁶⁹ The Poverty Bay Herald, 10 December 1907.

⁷⁰ Speech by Pene Hehei to Stout-Ngata Commission, reported in Poverty Bay Herald, 11 December 1907.

that was incorporation created the best means for establishing a farming industry amongst a communal people.

Both Stout and Ngata commented that the land appeared to be excellently farmed and improved, and according to the reporter from the Poverty Bay Herald who had accompanied the Commissioners to the farm, 'one could scarcely realise that it [the Maori farm] was not Pakeh -owned...and the woolshed was decidedly up-to-date'⁷¹!! As a result of the Commission's visit, an application was made to have Reporua incorporated in order that the owners could secure a title and obtain a legal standing.

Proceeding on their inspection trip, the Commission reached the Ahikouka No. 1 station, which was also the home of Ngata himself, and his own family who lived in the kainga on the station. The press report describes the kainga as an excellent type of modern papakainga, with nearly a dozen cottages. All but two or three were new buildings, and were 'neatly painted'. Having viewed this, the party proceeded to inspect the new woolshed on Ngata's station, which had also been fitted with the latest Wolseley shearing machines! Again, the journalist commented that the shed was complete with wool press and substantial yards, and bestowed on it his highest form of praise, that on the whole, the shed would have been a 'credit' to any Pakeha settler in New Zealand!⁷² Therefore local Pakeha and journalists seemed have judged the success of Maori on a comparative basis with other Pakeha farmers. Material possessions seemed have to scored highly in the progress points, which tended to ignore the fact that Maori had taken up the challenge to farm, and had done so successfully.

The station itself, some 1995 acres, had been originally manuka land, and was now all laid down in grass with 200 acres under cultivation. At the time of the Commission's visit, the well-farmed property carried 3600 sheep, 120 cattle and horses, and innumerable pigs, and supported eighty people. The block had been through the Native Land Court, but the relative interests had not been determined. However, in the meantime the 300 owners had been drawing equal shares in the profits. Illustrating the success of this farming operation, one elderly owner told the Commission that she had recently drawn a dividend of about £70 a year.

In general then, the Commission witnessed first-hand some of the highly successful farming ventures which had been operating on the East Coast.⁷³ More so than any other Maori land in the North Island, Ngati Porou had been 'profitably utilising' their land. As the Government had asked, the people were using their land so they could not lose it. Therefore, one would expect that the Commission could have seen fit only to recommend that the remainder of the Ngati Porou lands be left under Maori occupation so that they could continue with the farms they were so successfully operating. Ngati Porou had met the Government's requirements, which was to allow them to stay on their land. Thus, any move by the Crown to take their land would have contravened the Government's own stated policy.

⁷¹ Poverty Bay Herald, 11 December 1907.

⁷² Ibid.

⁷³ The Reporua station, Ngata's Ahikouka Station, together with the Herenga and Waiomatatini stations in the Waiapu county, altogether clipped 24,000 sheep and lambs, yielding 332 bales, and contributing £600 in rates in 1907 alone. (Poverty Bay Herald, 11 December 1907.)

But the East Coast was also an important area to the Crown, which saw the opening up of such fertile land as prime for Pakeha settlement. Stout and Ngata would have both known of this government hunger for lands in the East Coast, and perhaps set out to ensure that through their knowledge of the district, the success of Maori farming, and of the land already leased to the Pakeha, as much as possible was done to protect Maori ownership and farming in the East Coast. On the East Coast, Stout was nothing less than impressed with the achievements of Maori farming, and in his praise of them held them up to all Maori and even Pakeha as an example.

EAST COAST TRUST LANDS

Apart from the sittings in Waiapu, the Commission's work on the East Coast also included discussions which centred around the progress, organisation, and management of the East Coast Native Trust lands. At the time of the Commission, there were four separate systems of administration of the East Coast Trust lands, with three separate staffs and sets of offices. According to Stout and Ngata, these diverse administrations had not arisen because it was felt they were necessary, rather they had been called into existence through the 'peculiar circumstances' of Maori land titles in the district.⁷⁴ These included:-

- (1) East Coast Native Trust lands, administered by a Commissioner;
- (2) Lands administered by Trustees appointed under the *Native Land Laws Amendment Act* 1897, and included the Mangatu blocks;
- (3) Lands administered by a Receiver appointed by the Validation Court, for example the Whangara block; and
- (4) Lands administered by the Tairāwhiti Māori Land Board.

On the lands outside the trusts, still in Maori possession and not under lease (approximately 24,000 acres), farming was not carried out on the same scale as in the Waiapu County. As the Commissioners noted, it was not that Maori lacked the capacity or initiative to farm their lands, but they had been depressed by constant litigation which had resulted in their losing control over most of their lands. Consequently, many seemed to be 'dispirited and lacking in desire'.⁷⁵ In Tolaga Bay, for example, the Commission did witness the small beginnings of a pastoral industry, but there was an urgent need for the services of a competent agricultural instructor.

Stout and Ngata investigated lands in each of the categories above, and they will be discussed separately here. Maori owners gave evidence about their lands vested in the trusts, and the various trustees and Commissioners also appeared to give an update on the situation of the trust lands; including how much land had been leased and the terms of rental, and how much was left for Maori occupation. The Commissioners also heard from the well-known East Coast campaigner and lawyer W.L. Rees. As will be shown, disputes arose between some of the trustees and Maori owners, and Stout and Ngata were required to make comments on the nature of such disagreements, as well as assess the operations of the trust lands and the availability of any such lands for 'profitable utilisation' by both Maori and Pakeha.

⁷⁴ AJHR 1908, G.-iii., p.5. See the Commissioners' comment on why such a method of land administration was unnecessary and costly, and their proposals for something different, see following chapter, pp.240-244.

⁷⁵ Ibid., p.6.

Beginning with the East Coast Native Trust, these were lands which at the time of the Commission were held in trust and administered by a Commissioner for the Maori beneficiaries under the East Coast Lands Act 1902. Because of this, the lands could not be considered to be lying idle and open for investigation by the Commission. Furthermore, the Commission's jurisdiction to report and recommend did not extend to the East Coast Native Trust lands, as they were excluded from the operation of the *Native Land Settlement Act 1907*. Consequently, the Commission's role in their investigation of the East Coast Native Trust lands was not to establish how many acres could be made available for settlement, but to comment on the situation of the land in so far as it compared with the rest of the Maori lands in Waiaapu and throughout the North Island. Stout and Ngata were also interested in the financial workings of the Board, and the details of the leasing arrangements which it undertook.

The history of this estate prior to the passing of the *East Coast Trust Lands Act 1902* is somewhat turbulent, and needs to be examined briefly, in order to understand the situation of the East Coast Trust lands at the time of the Commission.⁷⁶ In 1878, the East Coast, was one of the most marginal areas of Pakeha settlement in the colony. Two million or more acres of land stretched from the East Cape to the Mahia Peninsula and held only two-three thousand Pakeha settlers. No organised group such as the New Zealand Company had poured settlers into the East Coast, and apart from the site for the Gisborne township, government purchasers had acquired hardly any land. Despite the movement of Pakeha settlement towards the new district, block after block of land was being bickered over in the Courts, and a host of difficulties and confusions such as obtaining the signatures of all the Maori owners, had to be faced by hopeful settlers.⁷⁷

However, one man in particular, the Belfast-born lawyer W.L. Rees,⁷⁸ felt he had a remedy to the "settlement problems" faced by Pakeha on the East Coast. Rees was of the school which believed that the Maori tribal system must be upheld and that the land should be dealt with by the tribe as a whole. He suggested that acknowledged chiefs or an elected committee would act as an executive and deal with the land according to the wishes of the whole iwi. A prospective settler had only to apply to the 'executive', instead of dealing with a multitude of co-owners. Under this system, Rees believed, there would no longer be illicit sales by individual members of the tribe.

Rees also believed that on the East Coast, the people were badly in need of guidance in handling their land, and seeking protection from 'rapacious purchasers and ruinous lawsuits'. In a district where there were vast areas of land apparently awaiting Pakeha settlement, in his view, Rees's method of land purchase depended upon the finding of some 'competent, responsible, and incorruptible agency' to handle the land on behalf of the tribe, and to sell it opportunely, and at fair price to

⁷⁶ This brief history of the East Coast Native Trust Lands which follows in the text, draws mostly on the MA Thesis written by Alan Ward, and is considered to be the most in-depth examination so far of the Trust Lands. See Alan D. Ward, 'The History of the East Coast Maori Trust', MA Thesis, Victoria University of Wellington, 1958.

⁷⁷ Ward, 'History of East Coast Maori Trust', pp.9-10.

⁷⁸ See earlier discussion of Rees in Chapter Two.

bona fide settlers.⁷⁹ Rees believed he could establish that kind of agency, and become responsible for the Pakeha settlement of the East Coast.

On the Coast, Rees found a partner in Wi Pere, a leading chief of Poverty Bay. Wi Pere was an owner of several thousand acres of land, and a pioneer sheep farmer of some fame. His mana was high in the Maori community, and he was the man whose support Rees needed to win. For his part, Pere saw in Rees's idea something of value to his people. Land was passing all too rapidly from Maori hands in Pere's view, and Rees's scheme offered Maori the chance of controlling the alienation of their lands and securing good terms. Pere had also not lost sight of Maori maintaining the ownership of their lands, and thought that the scheme provided Maori with a chance of regaining some of their land for their own use and benefit, where they could perhaps buy the land back from the agents once it had been broken in.⁸⁰

However, an initial scheme, whereby Rees had persuaded Maori to vest their blocks of land in himself and Wi Pere as trustees, failed quickly. Not one to be put off easily, Rees then set about forming a company which would realise his aim of providing an intermediary between Maori land-owners and prospective settlers.

By the end of 1883, the East Coast Native Land Settlement Company held land to the contemporary value of £275,901, and had sold about 20,000 acres of land to the value of £43,952. However, as private purchasers had found, litigation in the Courts together with the cost of surveying and of cash payments to Maori, had placed a heavy drain on capital, and it soon became necessary to mortgage land to the Bank of New Zealand. As time went by, the Company's sales of land could not maintain the Bank's overdraft. As a result of: the uncertainty of title still surrounding much of the East Coast lands; the resumption of Government pre-emption which stifled Company sales; and the onset of depression conditions throughout the colony in the late 1880s, the Company found itself increasingly unable to improve and sell its land, and pay Maori fairly for their land, let alone service its debt to the Bank.⁸¹

By July 1888, Rees's Settlement Company had been wound up.⁸² The debt to the Bank from the interest charges levied on the Company's mortgages had accumulated greatly, and this burden was accepted by Maori whose land was made security for the whole sum. The Bank agreed not to foreclose for three years, during which time the Maori, through their nominated agents Rees and Wi Pere, were to be given a chance to pay the debt and so redeem their land.⁸³ According to Ward, for the next eleven years

⁷⁹ Ward, 'History of East Coast Maori Trust', p.14.

⁸⁰ Ibid., pp.14-15.

⁸¹ In addition, there was the failure of Rees to have his whole idea, and the system of dealing by block committee and agency approved by Parliament. The Supreme Court's verdict that transfers of land to the Company were true sales collapsed the theoretical bases of the Company, and damaged the confidence which Rees' activities had initially generated on the Coast. After 1884, without legislative support, the Company had no reason to exist as an attempt to solve the problem created by confusing and restrictive land laws, and became just another group of speculating Pakeha. (Ward., p.32.)

⁸² Rees had also bankrupted himself in the process, in his fight for land titles.

⁸³ Ward, 'History of East Coast Maori Trust, MA Thesis, p.38. £81,000 due to Maori from proceeds of sales of 1882-1883, and spent by the Company in subsequent years, this debt to the Maori shareholders was written off. However, the general judgement of Rees and his partner Wi Pere at the time, suggested by the events of the 1880s seems to be that both men were thoughtful and well-intentioned, acting with perhaps more enthusiasm than caution, for the benefit of the East Coast people. Ward believes that the worst that can be said is that they

Rees and Pere strove 'conscientiously' to do what they could for the lands and people affected by the Settlement Company's failure.⁸⁴ They had little success however, and in failing to redeem the East Coast lands from the bank, the trustees instead watched the estate languish.⁸⁵

Towards the end of the 1890s, it became obvious to many people, both Maori and Pakeha, that it was absolutely necessary that the Government should step in and assist in the relief of the East Coast trust lands, and offer parliamentary assistance in the attempts to salvage land for the Maori. An attempt to lobby Parliament and to seek intervention into the East Coast situation was made, and a bill was planned by Rees and Pere to give expression to the needs of the district. However, the attempt to introduce this bill was unsuccessful, and at the start of the new year, 1898, the House remained inactive. It seemed that the East Coast Maori lands problem was too thorny, or too remote to warrant attention, and Seddon and his Government showed no inclination to endanger their popularity by interfering.

In 1901 the position became acute. With the debt on the Trust lands mounting higher and higher, the Bank of New Zealand was compelled to take steps to foreclose on the estate, and advertised several blocks for sale. The Bank told the trustees that it would sell the land if the mortgage was not promptly paid. January 1902 was fixed as the deadline. Rees immediately sought the assistance of the House of Representatives once more.

Then, about a fortnight before the sale, the Chairman of Directors of the Bank of New Zealand appeared before Sir Joseph Ward. Ironically, it was the Bank which urged the Government to act, and asked Ward to sponsor a bill which would place the East Coast Trust estate in the hands of a responsible body with power to develop the estate, take out fresh mortgages, sell and lease land if necessary and pay the Bank mortgage.⁸⁶ It was in the Bank's interest to have the land under a responsible statutory authority competent to pay the debt after a few years operations. These considerations, coupled with the representations of Rees and Wi Pere, the trustees, prompted Ward to act.⁸⁷

Parliament finally intervened in 1902, passing the *East Coast Native Trust Lands Act 1902*, which was to have effect immediately. By its terms the sale of the trust lands by the Bank was stopped, and the land vested in a statutory authority/trust - a Board appointed by the Governor-in-Council. The Board was to be constituted with full powers to sell, lease, or mortgage the lands comprising the estate in order to redeem

fell into 'high-handed attitudes' which seemed to characterise dealers in Maori land during that time. (Ward, p.45.)

⁸⁴ Ward, 'History of East Coast Maori Trust, MA Thesis, p.46. Both men had also been elected to Parliament at different times, and after the failure of the Settlement Company they continued to play their part as Members of Parliament in shaping the land policy of the Liberal regime.

⁸⁵ To make matters worse, the trustees' problems helped perpetuate the reputation which the Gisborne district had earned as a home for crooked lawyers and land agents. When such criticism reached the ears of 'influential people', the end of the East Coast Native Trust was foreshadowed. (Ward, 'History of East Coast Maori Trust, pp.64-68.)

⁸⁶ This approach was similar to the bill prepared by Wi Pere, and offered to place less hardship on the Maori, whilst offering the Bank a surer return of its money than would a mortgagee sale, which even in time of rising demand for land, was always an uncertain method of retrieving investments. (Ward, p.90.)

⁸⁷ Ward, 'History of East Coast Maori Trust, MA Thesis, p.91.

the existing mortgages to the bank (all powers which the previous directors had lacked to any worthwhile degree). It was also entrusted with the duty of administering the estate, of discharging the debt due to the bank, and of saving as much as possible for the Maori beneficiaries. The Board was to have far greater power to borrow money on the security of the land, and improve the land than had the previous trustees. Once improved, it was expected that the land would yield a profit from farming, and bring a far greater return than the sale or lease of the unimproved, undeveloped estate could bring.⁸⁸ It was understood however, although Wi Pere was most reluctant, that the new authority would still have to sell some of the land to service the debt, but there was hope that much of the estate could be salvaged.

When the Act came into operation the lands which became subject to it passed to a newly constituted Board, and comprised a total area of 238,380 acres.⁸⁹ From the sale of approximately 50,000 acres of trust land comprising various blocks, and with a rebate granted by the Bank of £20,000 off the mortgage, in August 1905 the East Coast Native Trust Lands Board was able to announce the payment of the debt to the bank. In the following year, the settlement of other outstanding claims, largely debts amounted through legal costs and mostly incurred by the whole estate, had been cleared.

When it was formed, it was generally expected that the new Trust would have a short history, merely paying the bank debt, returning the remaining land to Maori, and dissolving. There were others like Rees, Carroll, Wi Pere, and even Ngata, people who wished to see the land held for the inexperienced Maori farmers, but utilised profitably until Maori were able to productively work their land themselves. Nevertheless, once the debts had been cleared in 1906, the Board reported its work completed and willed its own dissolution. But it informed Parliament that, since some blocks in the estate had borne more than their fair share of the cost of clearing the debt, an adjustment of accounts between the separate blocks would have to be made.⁹⁰ There was thus left the important matter of determining the interests of the Maori beneficiaries in certain reserves, and the opening up for settlement of the balance of the lands in the estate. Until this had been carried out, the Board recommended to Government that the remaining lands in the estate be administered by an authority responsible to Parliament.

Accordingly, by Section 22 of the *Maori Land Claims Adjustment and Laws Amendment Act 1906*, provision was made for the establishment of an 'East Coast Commissioner' to handle the Trust lands in place of the Board. John Harding of the Board became first Commissioner, followed by T.A. Coleman, an accountant of Gisborne.⁹¹ It was at this time that Stout and Ngata arrived to conduct their own examination of the lands which happened to be part of the East Coast Native Trust Lands estate, and to review the progress of the Board and the East Coast Commissioner so far. In early

⁸⁸ Ibid. During debate on the Bill, the usual suspicion was voiced of Carroll and Wi Pere (both parliamentarians) feathering their own nests, but objections did not weigh heavily. The haste in passing the Bill was obviously necessary, and according to Ward, anyone could see that Carroll and Pere were only too glad to be relieved of a difficult position. (Ward, p.94.)

⁸⁹ Ward writes that the East Coast Trust ultimately handled about 350,000 acres.

⁹⁰ Ward, 'History of East Coast Maori Trust, MA Thesis, p.102.

⁹¹ Ibid., p.102.

correspondence, Maori of Tahora and the Mahia lands wrote to the Stout-Ngata Commission, expressing their confidence in the new administrator of their property.

Although the Maori Trust lands could not be brought under the operation of the Native Land settlement Act 1907, Stout and Ngata did intend to examine the operations of the Trust and its administrators. Thus, in order to aid their investigations into the East Coast lands the Commission, as they had done with the Native Land Court judges and District Maori Land Boards, submitted a series of questions to the secretary of the East Coast Native Trust Lands Board. There were no sittings held in relation to these trust lands, and Stout and Ngata must have relied on the answers to these questions to aid their inquiries.

One supposes that the Commissioners' interest in asking the questions related to their wish to ensure Maori owners were receiving the correct benefits. Or more simply, their questions to the East Coast Native Trust Lands Board were perhaps another facet to Commission's examination of the varying methods of administration of Maori lands throughout the East Coast.

ROYAL COMMISSION QUESTIONS ADDRESSED TO THE SECRETARY OF THE EAST COAST NATIVE TRUST LANDS BOARD:

- 1) What area of land was placed under the Board in 1902?
- 2) How as such an area been disposed of?
- 3) What area is now held in trust for the Maori?
- 4) What is the revenue of the Board?
- 5) What are the expenses of management of the Board?
- 6) How are the tenants for Board land chosen - by public competition and auction, or how?
- 7) What area is leased, and on what terms as to rent, length of term, and improvements?

Stout also requested that the following details be included:

- 1) the area of Maori lands to which the title has been ascertained, but which has not yet been individualised by the Native Land Court.
- 2) the area of papatipu lands - those to which the title has not been ascertained.
- 3) the area of land under cultivation by Maori, and other lands utilised by Maori
- 4) details of the lands on the East Coast leased to Pakeha.

By 13 April 1907 answers to most of these questions were returned to the Commission by T.A. Coleman, the East Coast Native Trust Lands Commissioner⁹², and showed that of the 238,380 acres of Maori land placed under the board in 1902, 51,911 acres had been sold. The remaining area held in trust for the Maori beneficiaries was 186,469 acres, of which 61,264 acres had been leased. Twenty-seven thousand, seven hundred and nine-nine acres had been set aside for Maori occupation, and in addition approximately 900 acres of valuable agricultural land in the vicinity of Gisborne was also to be permanently reserved for Maori tenure. Tenants for Board land were chosen solely by public competition, and according to Coleman the gross annual revenue of

⁹² See 'Memorandum from the East Coast Native Trust Lands Board in reply to questions submitted by the Native Land Commission', 13 April 1907, pp.1-5, Papers relating to the work of the Native Land Commission in the East Coast, National Archives, MA 78 Item #10. All of the questions in the first batch were responded to, and also those questions which involved details of leases. However the records do not show any answers relating to the inquiries on papatipu land or details of Pakeha lessees.

the East Coast Native Trust Lands Board at April 1907 was £4718.0.0 Out of this was taken £600 per annum which covered the expenses of the Board's management.

Thus 97,406 acres had not yet been dealt with at the time of the Commission's investigations, and had been left available for Maori occupation or to be leased. These blocks were commonly reputed to be of little or no value, for they were without road access and were practically 'unknown to Pakeha. A large part of these lands were mostly second class bush areas. The East Coast Native Trust Lands Board had proposed to offer the blocks for sale or lease as soon as access roading could be arranged, and until that had been achieved, the Board considered it quite impossible to obtain fair prices for the lands.⁹³

As to the terms and form of the 61,264 acres which had been leased as of April 1907, this area was divided into ten sections of varying acreages, ranging from the 28,178-acre Mangapoike block to the 13-acre Paremata section. With exception for those leases which were entered into before the East Coast Native Trust Lands Board was created, the Board's leases were for twenty-one years with the right of renewal for a further term of twenty-one years, but no longer. However two blocks of land leased by the Board stated no right of renewal in the lease agreement. As noted in the secretary's reply to the Commission's questions, the Board declined to give a right of renewal in these specific cases, in order that when the lease expired the Maori owners would be given the opportunity of working the blocks themselves.

Rental per acre of land averaged seven pounds and the lease agreements allowed for such rental to increase every seven years during the first twenty-one years. With regards to improvements, the Board's usual form of lease provided that the lessee could put 'substantial improvements of a permanent character' on the lands.⁹⁴ However, the amount the lessee could spend on improvements was limited and was set in the agreement by the Board. For example, the lease relating to the 4376-acre Tawapata block limited the amount of compensation for improvements payable to the lessee to twenty-five shillings per acre. Outgoing lessees were entitled to compensation for improvements at the end of the first term of twenty-one years. After expiry of that first term, lessees were no longer entitled to any compensation for improvements.

During the Commission's investigations, the owners of one block within the East Coast Native Trust lands, expressed a desire that the land be reserved for Maori occupation and leased to one of the Trust's beneficiaries. Stout and Ngata concurred that the land would not be suitable for Maori occupation (reasons were never given), and that it should be leased to the general public. As it was not within their jurisdiction, the Commission concluded that such matters should really be for the consideration of the East Coast Native Trust Lands Commissioner, whose administration the Commission had found satisfactory. Stout and Ngata resolved that

⁹³ 'Memo from East Coast Native Trust Lands Board in reply to questions submitted by the Native Land Commission', 13 April 1907, pp.1-5, Papers relating to the work of the Native Land Commission in the East Coast, National Archives, MA 78 Item #10. It was noted also that not all the East Coast Trust lands were in the Cook County, not were the Maori beneficiaries confined to that county; some of them lived at Opotiki, and also in Mahia, Nuhaka, and Wairoa. (AJHR 1908, G.-iii., p.2.)

⁹⁴ Ibid., pp.3-5. However, in the case of three blocks (Whangawehi, Pakowhai, and Paremata), there were no improvement clauses written into the lease agreement.

this person was armed with all powers necessary to enable them to open the balance of the estate for settlement by way of sale or lease. As to the areas reserved for Maori occupation, the Commissioner was in a position to assist Maori financially so they could attempt to farm and utilise their lands. The Commissioner however, retained the general powers of management.

It is interesting to note, as Ward does, that the East Coast Commissioner also had the right to farm land for Maori - not just to assist them in farming for themselves.⁹⁵ In relation to this, Stout and Ngata heard evidence from the owners of the Mangapoike block, who had originally sought the East Coast Commissioner's assistance in farming their land. They were particularly disgruntled that the assistance had taken the form of developing the land, leasing it, appointing Pakeha managers on the stations, and shutting the Maori out from their own attempts at farming. In response to this, Ngata commented that the East Coast Commission and even some of the Maori Land Boards often met with opposition and were not always popular because 'in none of these was the settlement of the Maori on the land a feature of their schemes.'

Nevertheless, in general Stout and Ngata uncovered nothing amiss or erroneous in terms of the operation of the East Coast Native Trust Lands Board. In relation to the Commission's examination of the East Coast Native Trust Lands Board as a whole, it could be seen that the Board had opened up new lands and brought new capital to the East Coast district. Nothing could have pleased better those who wished to see the East Coast develop and advance, including Stout and Ngata who seemed to take much satisfaction from evidence of Maori progress.

EAST COAST REGION - MANGATU AND WHANGARA BLOCKS

In contrast, we now move to the Commission's examination of other East Coast lands, where the adequacy of administration had 'raised a few eyebrows', and was cause for investigation by Stout and Ngata. Discussion includes the Mangatu blocks which were administered by Trustees appointed under the *Native Land Laws Amendment Act 1897*, and the Whangara block which was managed by a Receiver appointed by the Validation Court. As opposed to the Trust lands, the Commission's jurisdiction extended to an investigation of these two blocks. [See Map Four]

Wi Pere was a paramount owner in the 164,000 acres of the Mangatu Blocks 1, 3, and 4. Given his own very great mana, together with the large share of the Mangatu Block accorded him by the Native Land Court when it registered Mangatu's memorial of ownership, Wi Pere was able to direct the future of the block very much as he wished.⁹⁶ Wi Pere, as noted above, had also been a 'prime mover' with William Rees of the New Zealand Native Land Settlement Company, and it is not surprising therefore that in 1883 the 164,000 acres of Mangatu were leased to the Settlement Company. When the fortunes of this Company declined (as earlier described), the owners of Mangatu must have felt grateful for the Native Land Court order which, under the provisions of the *Native Land Amendment Act 1867*, had declared the block inalienable by sale or mortgage. Thus it was that instead of becoming liable for the debt of the Settlement Company as was the fate of most of the other Maori involved in

⁹⁵ Ward, 'History of East Coast Maori Trust, MA Thesis, p.115.

⁹⁶ Ibid., APPENDIX - 'Early History of the Mangatu Incorporation', pp.201-202.

that organisation, the Mangatu lands simply reverted to the Maori owners when the Company ceased paying rent.⁹⁷

However, there was also a problem with Mangatu titles, as in 1881 the Native Land Court had vested Mangatu in only twelve of the true owners. Thus later when descendants of the original owners applied to have their rights of succession granted, only the offspring of the twelve had their claims accepted, and the remaining ninety owners and their descendants were shut out from their rightful inheritance. This state of affairs was amended by a private bill introduced into Parliament by Tame Parata, the member for Southern Maori in 1893.

The Mangatu No. 1 Empowering Bill addressed the problem of the unacknowledged owners in Mangatu and their being admitted to shares. However, the Bill also introduced a subject of much wider significance. It provided not only for the recognition as true owners of Mangatu of those who were excluded from the memorial of ownership in 1881, but also for the incorporation of all those owners in a body corporate.⁹⁸ The members of the incorporation were to elect a management committee of seven, which would administer the estate for the whole body of owners. Power was to be granted to the committee to lease the land or sell it to the Crown, subject to the consent of the majority of owners. This, the first attempt by Maori owners to secure statutory authority for administering land through the system of incorporation, drew much attention to the Bill.

Some members of New Zealand's national assembly were suspicious of the Maoris' ability to run large scale farms for themselves. That a management of committee of seven could administer and improve a 164,000 acres estate seemed a very doubtful proposition to the predominantly Pakeha politicians. Using the failure of the Settlement Company as an example, such men opposed the granting of any similar administrative power to a management committee, for they expected the Committee to abuse its powers, appropriate profits from the land or otherwise fail in its duties, and allow the fortunes of the estate and of the remaining owners to fail. On the other hand, it was indeed our very own Robert Stout, in his days as an MHR, who stated in the House that he would be willing to see Maori attempt to handle their Mangatu land through incorporation. He considered that the management committee should be given a trial in lieu of anything better.⁹⁹

Thus, after much debate in the House,¹⁰⁰ many of the Liberals believed that the system advanced by the Mangatu No. 1 Empowering Bill was an earnest attempt to make Maori 'useful settlers' on their own land. In the case of Mangatu, which the Crown had no hope of buying because the land had been declared inalienable except by way of lease, most members of the House were willing to let Maori try running the

⁹⁷ Ibid., p.202. However, the land had for a decade, been locked up and unimproved.

⁹⁸ Ibid., p.203.

⁹⁹ NZPD 1893, Vol 79, pp.438-439.

¹⁰⁰ Certainly, there was opposition to the proposed Bill, from those who urged the individualisation of Maori ownership of land. With reference to Mangatu, such opponents believed that the block should be subdivided and each Maori owner given their individual plot. But, according to Ward, such people did not understand how much the Maori depended upon the support of communal living, and how they would be duped by the experience and shrewdness of Pakeha. (Ward, 'History of East Coast Maori Trust', p.206.) Objections to the Bill were also based on the Pakeha fear of Maori landlordism, and of the poor tenure such a situation would afford the Pakeha.

block under incorporation. However, because of the opposition to the incorporation of the Mangatu owners, Seddon felt obliged to say that such a system would not be widely extended. In contrast to the Government's usual policy of having Maori land placed in government-sponsored land councils or boards, this particular private bill was only to grant the owners in Mangatu their rights and shares. With this assurance that the incorporation of the Mangatu owners would be an exceptional case, the bill passed.

Within a fortnight of the passing of the Act the management committee was elected by the owners. The 'ubiquitous'¹⁰¹ lawyer W.L. Rees, preserving his association with Wi Pere and the Mangatu people, drew up regulations under which the incorporation would operate. As soon as the regulations had been approved, the committee, lacking finance, applied through Rees to the Public Trustee, for a loan to pay for the survey and subdivision of the land. However, no money was forthcoming for the Mangatu incorporation.¹⁰² The intention of the restrictions on borrowing was to safeguard the incorporation from losing their land and capital by using it as security for reckless mortgaging. However, the Mangatu owners were annoyed by the restrictions, and commented that the committee was compelled to see their land lie 'idle and unproductive while they were accused of sloth and incompetence' by Pakeha.¹⁰³

The committee, in addition to being blocked from carrying out its work through lack of money, began to develop dissensions within itself, largely because of the disparity between the influence of the Wi Pere family and of the members of the other two hapu which were awarded rights in the Mangatu block.¹⁰⁴ Both problems were for the time being put aside however by a Government change in the mode of Maori land administration.

As a prelude to the *Maori Land Councils Act 1900*, the Government passed Native Land Amendment Acts in 1897 and 1898, empowering Maori to convey land by way of trust to the Surveyor General, or to the Commissioner of Crown Lands in the district wherein the land was situated. Consequently in 1898, the Mangatu owners moved promptly to take advantage of the *Native Land Laws Amendment Act 1897*, by vesting 88,976 acres of their land in the Commissioner for Crown Lands for the Hawkes Bay district, thereby calling on the sources of finance which he could command. They sought to retain as much control of their estate as they could by having Wi Pere and Mr H.C. Jackson (Receiver in the Carroll-Wi Pere/East Coast Native Trust Lands Estate) appointed as co-trustees with the Commissioner for Crown Lands. In addition the management committee deriving from the old incorporation was retained in the new trusteeship, with the intention that it would handle much of the day-to-day administration.¹⁰⁵

¹⁰¹ Ward, 'History of East Coast Maori Trust', p.207.

¹⁰² Reasons for this include; that security for such a loan could not be taken out on the Mangatu land because it had been declared inalienable by mortgage, and secondly, there was still a firmly held opinion among Pakeha that Maori should not borrow money for they were not yet able to understand the 'difficulties' of repaying capital and interest.

¹⁰³ Ward, 'History of East Coast Maori Trust, MA Thesis, p.208.

¹⁰⁴ Ibid., p.209.

¹⁰⁵ Ibid., p.210. The agreement of 1898 which created the trusteeship, required the trustees to secure the consent of the block committee to all mortgages of the land, and to any transaction involving sums greater than £250.

The new administration seemed to work successfully, and this was the scenario when the Stout-Ngata Commission arrived in the district to take evidence in relation to its investigations. The Commission met at the Gisborne Supreme Court buildings on Saturday 30 November 1907, the cause of the sitting being to ascertain how much Maori land in the district was available for settlement.

With regards to these lands, the Commission heard evidence from Mangatu trustee, Mr H.C. Jackson, who was also represented by his lawyer, none other than W.L. Rees. Rees had money and interests tied up throughout the East Coast, and through his involvement in various timber and land companies and in finance deals knew men such as Jackson. Rees had become the lawyer for the Mangatu trustees - Hon. Wi Pere, the Commissioner of Crown Lands for Hawkes Bay Henry Trent, and Jackson - and thus primarily represented their interests before the Commission. Rees was also involved personally in the Mangatu blocks as he was keen to secure the rights to much of the timber on the land, and already held the lease under full legal agreement to mill timber on Mangatu No.4.

Jackson and Rees produced various returns for the Mangatu estate, from which the Commission was able to establish that by 1908, 51,406 acres of Mangatu had been leased by public auction to various tenants. The terms were for twenty-one years, with covenant to pay the value of improvements, and right of renewal at revaluation. Although much of the land was reported to be carrying excellent milling timber in large quantities - Rees said that he had been informed that the best timber of the Motu district was on Mangatu land - Jackson informed the Commissioners that many efforts had been made to lease the remaining Mangatu lands, but the inaccessibility of the lands and the need for access roads had prevented any offers being made which might be considered satisfactory. The unleased areas of the block amounted to 37,570 acres.

During the Commission's sittings, Stout and Ngata were told that there was a mortgage over Block Nos. 3 and 4 of £2100. The 3680 acres of Mangatu No.3 had been leased to the Barron Brothers in 1901, whilst Mangatu No. 4, 6000 acres, had not been leased. There was a proposal from the Maori owners of No. 4 to borrow £5000 for the purpose of improving and working the block as a farm for themselves. The valuation of this block was 10s. per acre, and according to Jackson, the Maori owners of No. 4 had other lands which some of them farmed, and had never occupied the Mangatu land. However, Maori proposed to utilise this block as one farm, under the management of a committee, and also hoped to offer out bushfelling contracts. The owners felt that they were competent to farm the land, and wished to do so in order to make money and pay off the liabilities.

Mangatu Block No. 1, containing the largest acreage of the Mangatu lands, was administered by the same three trustees, but by a different committee. The trustees, in accordance with the instructions of the owners of Mangatu No. 1, had just completed the borrowing of £18,000, for paying off existing liabilities and for providing a sum of £8,000 for improving portions of the land. They proposed to lease some of their land and to occupy the other portion, the milling timber in each case being conserved.

LAND AFFECTED BY THE OPERATIONS OF THE NEW ZEALAND
NATIVE LAND SETTLEMENT COMPANY.

A. Land bought by the Company and sold 1882-1888.
(Save for 2,000 acres acquired by Wi Pere under the 1892 Agreement.)

B. Land which came into the Carroll-Wi Pere and East Coast Trusts.

(a) Land bought by the Company and mortgaged in 1888. - the principal security lands.

1. Mangaokura.
2. Mangatu 5 and 6.
3. Motu 1.
4. Okahuatuu 2, 2A.
5. Pakowhai.
6. Maraetaha 1.



(b) Land claimed by the Company and mortgaged by Carroll and Wi Pere - the Specific Security lands.

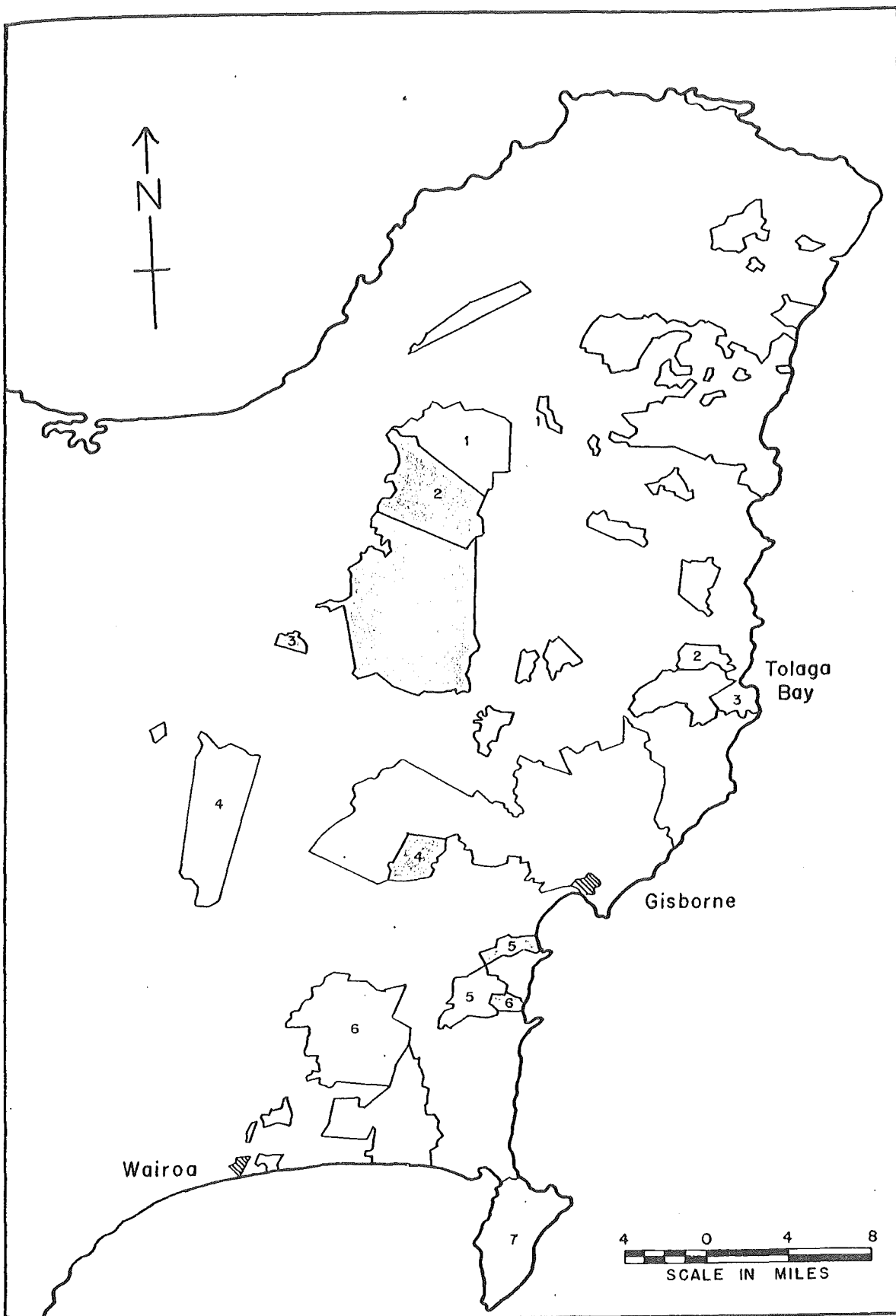
1. Maungawaru.
2. Mangaheia 2.
3. Paremata.
4. Tahora.
5. Maraetaha 2.
6. Mangapoike.
7. Tawapata, Nukutaurua, and Moutere on Mahia Peninsula.

C. The Mangatu 1, 3 and 4 blocks.



D. Land to which the Company laid claim but received no complete title.





MAP FOUR

The Stout-Ngata Commission thus witnessed considerable progress with regards to the Mangatu lands, yet certain flaws of the administration were disclosed during its inquiries.

According to Ward, Jackson, sharing 'the same fatal optimism' which seemed to characterise Pakeha trustees for Maori land in the East Coast, believed that great profits would soon accrue from the extension of farming operations on Mangatu land by the trustees. In expectation of profits, Jackson began to make reckless distributions to the beneficiaries.¹⁰⁶ To make matters worse, it would have been evident to Stout and Ngata that the accounts kept were inadequate for any estimation of the general financial position of the Mangatu Trust estate. After some investigation, the Commissioners would have been able to see that since the rents were being absorbed by interest on the mortgages and by general expenses of the administration, dividends paid by Jackson could ill be afforded.

This perceived general slackness of administration, while not amounting to any gross incompetence or dishonesty on the part of the Trustees, justified the presentation of a petition by Himiona Hatipa and twenty other owners of Mangatu to the Stout-Ngata Commission. The petition, which had been unanimously agreed upon after a number of representative meetings of owners, protested against the lax administration of the Mangatu trust and objected to the heavy mortgages which had been incurred over the land.

The petitioners were particularly worried about the perceived corruption of certain land trustees, and appealed to the Commission with their concerns. Believing that as owners, they were deriving no benefit from their land being held in trusteeship, those with interests in the Mangatu blocks demanded that the Commission cancel the appointment of Hon. Wi Pere, Mr H.C. Jackson, and the Commissioner Henry Trent as the three trustees. These owners were strongly of the opinion that they would be much better off if allowed to deal with the land themselves.

The petition also complained that as long as the trust had been in existence, Maori owners had not had a clear statement of accounts from Mr Jackson, and they were thus unaware of the present financial position of their estate. Concerned that the revenue from their lands was not being dealt with thoroughly or correctly, the petitioners respectfully urged the Commissioners to pass control of the whole of the Mangatu Block directly to the owners, or into the hands of the East Coast Trust Lands Commissioner - who was at this time enjoying a high reputation for his salvage of the Carroll-Wi Pere Trust lands from the Bank of New Zealand, and for the rapid opening up of the East Coast Native Trust estate for sale and lease. If this was not possible, they asked the Commission to authorise a full audit of the trustees' accounts for the blocks of land in question.¹⁰⁷

Similarly, in 1899 the Validation Court had appointed Henry Cheetham Jackson as the sole receiver for the Whangara estate on the East Coast. Thus the link between

¹⁰⁶ Ward, 'History of East Coast Maori Trust, MA Thesis, p.212.

¹⁰⁷ 'A Petition [to Stout and Ngata] upon the Trusteeship of the Commissioner of Crown Lands Hawkes Bay, Mr Henry Cheetham Jackson and Hon. Wi Pere, on certain Maori lands in the County of Cook', signed Himiona Katipa and 20 others, nd., Papers relating to the work of the Native Land Commission in the East Coast, National Archives, MA 78 Item #10.

Mangatu, and this next block to be discussed, is Jackson. Whangara was a block of 12,325 acres, of which all but 679 acres had in the period 1894-1903, been leased for twenty-one years, without the right of renewal. Jackson administered the block under decree of the Validation Court, with power to execute leases whenever directed by the Court. He received and disbursed the rent, and managed one farm for the Maori.

As receiver for the Whangara block on the East Coast, and also secretary to the Native Committees of Trust Blocks in the Poverty Bay District, Jackson was the subject of another petition to the Commission in which seventy-eight Maori owners called for the cancellation of his appointment. The Maori owners were concerned that he was mis-managing funds, and as owners of the land felt they were deriving no benefit from his management. Jackson was accused of leasing the land at a rental under value, and of leasing it to favoured persons rather than to the highest bidder so as to benefit the owners. Maori had also never been supplied with a statement of accounts since Jackson took over as receiver, and felt left in the dark with regards to the administration of their lands.¹⁰⁸

Criticisms were also heard regarding the salary and office expenses charged by Jackson, and other complaints were made such as the cost of litigation arising out of the first dealings with the block. As with Mangatu, the petitioners requested that they be able to manage and lease their own lands. Failing that, they asked the Commission to recommend that Whangara be placed for administration under the Commissioner for the East Coast Trust Lands, and that the appointment of Jackson as Receiver be cancelled. With very little land to farm in Whangara, Maori wished the land to be returned to them once the present leases had expired, and felt competent to farm the lands. However, the owners did concede that portions of the estate must be opened up for general settlement.¹⁰⁹ Difficulties had arisen nonetheless, as some of the owners had promised to lease the block to Pakeha, whilst the majority of owners wished the land for themselves. They looked to the Commission to decide who could utilise the land - was it to be leased to Pakeha or kept to be productively operated by Maori?

In answer to all of these accusations, Jackson informed the Commission of the reason why the accounts had not been rendered for Mangatu. He maintained that the accounts of the block, although often discussed with the owners at public meetings, had not been formally rendered as the owners, numbering approximately 250, had on various occasions requested that nothing final be done until:- the relative interests were determined, an agreement arrived at as to the final method of management of the estate, the whole of the liabilities gathered into one debt, and money provided for improvements. Strangely enough, by the time the Commission's investigations had come, the Trustees had determined to have their full accounts rendered and audited, so that they could start upon the improvement of the unleased properties!¹¹⁰ Was all to good to be true, or was it pure coincidence that the trustees had decided to adopt professional business habits upon the arrival of the Commission?!

¹⁰⁸ Petition to the Commissioners, re Whangara Block and Henry Cheetham Jackson of Gisborne, signed Eruera Rongomai and 77 others, December 1907, Papers relating to the work of the Native Land Commission in the East Coast, National Archives, MA 78 Item #10.

¹⁰⁹ Evidence from Maori owner, Te Kura, who had an interest in the Whangara estate, recorded in the Minutes of the Stout-Ngata Commission for 2 and 3 December 1907, Gisborne. See Papers relating to the work of the Native Land Commission in the East Coast, National Archives, MA 78 Item #10.

¹¹⁰ AJHR 1908, G.-iii., p.3.

The Commission was also told by Jackson that some rent payments had not been received by Maori, because frequently the owners had died and successors had not been nominated. Furthermore, countered Jackson, contrary to the allegations that he had run up large administration expenses, the average cost of administering his estates was under five percent of their annual revenue. Speaking on behalf of Jackson, Rees explained to the Commission the position of liabilities on Mangatu Nos. 3 and 4, and confirmed that the liens for survey had been very heavy. Money had been advanced to pay these and for owners' personal wants, whilst the interest on the mortgage absorbed the whole of the rents. Consequently, the overall dividends Maori beneficiaries had received so far had been limited.¹¹¹ What's more, Jackson told the Commission that he had only drawn £60 out of his £260 salary as trustee, and, he had received no remuneration whatsoever for his work in managing one of the incorporated Whangara farms.

As to the allegations that he, as receiver of the Whangara block, had not supplied the owners with accounts, Jackson stated that he had carried out the decree of the Validation Court, which required him to supply an account to the Court only. According to him, there was no provision in the Court decree to supply the Maori owners with any details of the Receiver's dealings with the Whangara land. He had been specially appointed to audit the accounts of the estates under his charge, these accounts were not published in the New Zealand Gazette, but Maori were given notice when the accounts would come before the Validation Court. Rees told the Commission that the accounts for 1907 were audited and filed, and those for 1908 were in the course of auditing, but all could be produced.¹¹²

In regard to the next point in the Whangara petition which suggested that the leases on the estate had been issued at less than their value, it was stated that the leases had been validated by the Native Land Claims Adjustment Act. Prior to that, countered Rees, the leases had been approved by the Maori owners at a meeting. He would call Mr Jackson to show that the lease orders were all according to the Court's decree and had been approved by the Maori. Most of the leases had been advertised publicly, and according to Rees, Maori themselves had asked Jackson to permit them to assign these leases to Pakeha. Mr Jackson had insisted on back rents being paid, which the Pakeha lessees had done.¹¹³ In reply to the Chairman of the Commission, Jackson said that there had been no unoccupied land available for which the Maori had applied, and he had thus advertised the land to be leased. The leases were all for twenty-one years.

Having heard from Jackson and Rees, the Commission did not regard the Mangatu and Whangara people's problems as serious enough to warrant special or urgent attention. However, Stout and Ngata were anxious that local Maori landowners held such concerns, highlighting what Maori saw as an unsatisfactory performance in the management of these East Coast lands. Therefore, in November 1908 a second sitting

¹¹¹ Evidence given by H.C. Jackson and W.L. Rees, recorded in the Minutes of the Stout-Ngata Commission for 2 and 3 December 1907, Gisborne. See Papers relating to the work of the Native Land Commission in the East Coast, National Archives, MA 78 Item #10.

¹¹² Ibid. Jackson also told the Commission that he was more than willing to prepare for them a statement of the taxes he had paid during his trust.

¹¹³ Rees' testimony to the Commission, as reported in the Gisborne Times, 3 November 1908.

was held in Gisborne at the Native Land Court, one year after the Commission had first been to the town.

This time they met a number of the owners of Mangatu and Whangara personally, who reiterated the accusations they had made in their earlier petitions to the Commission. Te Kani Peri made a lengthy statement in support of the petition presented to the Commission the previous year, whilst evidence on the quality of the Mangatu land, and the dealings with Mangatu's three trustees was given by other Maori owners from the district. Names mentioned in the minutes of the Commission's sittings included Mahaki Brown, Henari Ruru, and Panapa Waihopi, who had asked his grand-nephew, Himiona Katipa, to explain matters. For the Whangara people, evidence was given by Rawhiri Karaha, Hopi Hinaki, and Rutene Korua.¹¹⁴ Rees again attended the sitting on behalf of Jackson to hear the evidence from the Maori owners, who themselves were represented by the Maori lawyer, Eruera Rongonai.

Himiona Katipa established that the petition from the Mangatu people had asked for new trustees as they believed the present trustees were not doing their best for the land. Part had been leased, and the other land was still lying idle. In contradiction to what Jackson and Rees had stated in evidence the previous year, Katipa said that there was no timber on the land worth milling. Rees was quick to counteract this statement by informing those present at the sitting that in fact there was 2000 acres of magnificent timber on the Mangatu lands, worth £15-20 per acre. In diffusing this brief stand-off, Stout suggested that no doubt the surveyors' field books would show what timber there was!¹¹⁵

Himiona Katipa stated that there had been a first mortgage of £540 over Mangatu No. 4. Mr Rees and 'other people' were paid their costs out of this when another £1400 had to be borrowed to pay further costs to Rees. These expenses were for incorporation of the block, and on that account the petitioners objected to the administration of then trustees. Katipa said that the main trouble was the expenses paid to Rees, and the trustees 'had no right to pay so much'. Maori owners had not anticipated that their revenue would be so small, and considered that if allowed to proceed as at present the land would be swallowed up in costs.

During the sittings, Stout and Ngata felt with regards to Mangatu No. 4, that of the £5000 the trustees were intending to borrow, there was no doubt that half of it would be required to discharge existing debt, leaving the balance available for farming operations. With an annual interest charge on the debt set at £250, and the salaries of the trustees, office expenses, and costs of administration amounting to £100 per year, it seemed to the Commissioners that this estate would soon be involved in great financial difficulties.¹¹⁶

Stout and Ngata thus advised the owners against this proposal to borrow money, and instead presented a scheme of their own which they thought would be more suitable. This included selling the available milling timber and using the proceeds to discharge

¹¹⁴ Minutes of Commission sitting, as reported in the *Gisborne Times*, 3 and 4 November 1908. The actual copies of the Commission's Minute Books in this late stage of its work were unavailable, and are not held in the National Archives, MA 78 collection.

¹¹⁵ Ibid., 3 November 1908.

¹¹⁶ *AJHR* 1908, G.-iii., pp.3 and 5.

any debts. The Commissioners suggested that the owners lease half of the block, and use the rental moneys to work the remaining land as a communal farm reserved for Maori occupation. Stout and Ngata suggested that the owners apply the system of incorporation, and appoint a proper manager to the farm, with a committee of owners to be chosen to 'superintend the management.'¹¹⁷ Their young men would have to work on the farm themselves, and Ngata advised sending a group of them up to Waiapu to see how farming was conducted by Maori there.

The Commissioners concluded that no money should be borrowed, or at least until the other half of the block had been leased. 'You must begin small and not go into debt', admonished Stout, also warning the people against mortgaging their lands further.¹¹⁸ Maori owners present at the Commission's hearing generally agreed with this proposal, and Rees, who had appeared as counsel for the trustees, concurred on their behalf.

With reference to Whangara, Stout and Ngata noted that the rental on the lease land appeared to be too low, whilst the salary of Jackson the receiver, office expenses, and the costs of administration amounted to nearly ten percent of the block's revenue. However, the allegations that Jackson had leased the land to favoured persons at under value, and not to the highest bidder at public auction, could not be proved to the Commission. And upon being pressed by Stout, the Maoris' lawyer Eruera Rongoniat said that in fact he had agreed, and knew of no objection, to the leases which had been assigned. Rongoniat stated that he thought favouritism had been shown because of what had been said as to the low rentals, however he had not understood the position from Mr Jackson's view point until the Commission had made enquiries.¹¹⁹

Nevertheless, Stout and Ngata did consider that Jackson's accounts as receiver for Whangara were not clearly stated, and they felt that 'no ordinary' Maori or Pakeha would have been able to understand them.¹²⁰ The accounts did not show General Expenditure, and General Receipts separately, and there were no separate accounts for the different subdivisions such as office expenses or receiver's salary. Furthermore, the accounts did not comply with a set financial year, and covered varying periods of time over a 20-month duration. However, the Commissioners did not make a final recommendation as to whether Jackson had acted properly in his duties, and their opinion of the matter was reserved for their interim report on the East Coast.¹²¹

As a result of the petitions from Maori owners, and their meetings with the owners, Stout and Ngata were somewhat troubled that the finances from these lands - which were so necessary for Maori owners to farm and improve their lands - were being squandered. According to the Commissioners, even the Native Committees who were supposed to co-operate with the trustees in the administration of these lands, were not

¹¹⁷ AJHR 1909, G.-1E., p.2.

¹¹⁸ Minutes of Commission's sitting, as reported in the *Gisborne Times*, 3 November 1908.

¹¹⁹ AJHR 1909, G.-1E., p.2.

¹²⁰ Ibid., p.3.

¹²¹ See AJHR 1909, G.-1E., pp.3-4.

aware of the current financial position.¹²² Consequently, Stout and Ngata called upon the Government to instigate an 'immediate and careful' audit of the accounts of the trustees and receivers administering certain lands (the Whangara and Mangatu blocks) in the Cook and Poverty Bay counties. They both felt that the appointment of a 'competent auditor' would alleviate the concern pervading the Maori community. In addition, the Commissioners considered that it would be better if all of both Mangatu and Whangara were held in trust under one board of management.¹²³

Nevertheless, in wrapping up proceedings at Gisborne, Stout did warn the Mangatu and Whangara owners that the Commission could do nothing more than report to the Government. Was Stout beginning to doubt his own conviction that the Government would heed all the Commission's recommendations, and act upon them immediately? After all, by the time of these sittings in Gisborne, the Commission had been operating for nearly two years, and up to that point very little action had been taken by the Crown with regards to the recommendations which the Commissioners had been making in their various interim reports. Was Stout now afraid to promise Maori anything because he doubted the Government's ability to deliver on any assurances made by the Commission?

According to W.H. Oliver, the history of the East Coast region, rather more than normal in New Zealand, had been marked by frustrations and disappointments, and yet the region also had a distinctive 'character'.¹²⁴ Both these factors were none more so evident than in the accusations, replies and counter-accusations which were a feature of the above case study. Much of the lands were under the administration of trustees, and for some time, the people had been struggling under the poor management both of their lands and finances. Maori were fed up, and on the Commission's arrival in the district, they had decided that enough was enough, and presented petitions to the Commission which accused certain trustees and receivers of financial mismanagement and inadequate administration their lands. As beneficiaries, Maori had seen little of the money from the leases of their lands, and were determined to have their accusations answered.

In this respect, the Commission was able to offer some limited help, in that Ngati Porou were given a chance to say what was on their minds. Furthermore, in "poking around" the accounts of the various trustees of the East Coast lands, the Commissioners forced the likes of Rees and Jackson to front up and defend their business practices in a public forum, and under the intense scrutiny of Stout and Ngata who were more than a little concerned by Ngati Porou's accusations. In this way, the people were able to have some of their questions answered, and the Commission helped to ease Maori concerns somewhat. Furthermore, both men had to justify themselves in relation to the owners in front of the Commission, and this in

¹²² Letter, Commissioners to Rt Hon Sir J.G. Ward Premier, February 1908, Papers relating to the work of the Native Land Commission in the East Coast, National Archives, MA 78 Item #10.

¹²³ Stout and Ngata felt strongly that the four separate systems of administration of East Coast land was an unnecessary waste of money, and a difficult method of managing the lands in one region. Thus throughout their reports regarding the East Coast they suggested that the trust lands be united under the management and control of one entity. See following chapter for discussion of such reports, namely AJHR 1908, G.-iii., and AJHR 1909, G.-1E.

¹²⁴ Oliver, *Challenge and Response*, p.9.

turn put pressure on them to “sharpen their act up”; which can have only benefited the administration of the beneficiaries’ lands.

KING COUNTRY - WAIKATO ISSUES

In both the King Country and the Waikato the Commission was to find considerable divisions among the people as to how their lands should be managed. Here the wars of the 1860s, and the Raupatu had left a bitter legacy, particularly in Waikato where the impact of Raupatu was greatest. But the King Country (Rohe Potae) which had been protected under the mana of the Kingitanga from Pakeha intrusion for twenty years after the confiscation, had finally been forcibly “opened” by the Government in the 1880s. By the turn of the century, more than any other district where Maori owned large areas of land, the Rohe Potae attracted the attention of the public. The region was the site of extensive purchases of Maori lands and the rapid settlement thereon of Pakeha farmers, which necessitated direct Maori contact with them before they had a chance to size up the overwhelming wave of Pakeha arrivals. No opportunity of gradually assimilating the practices of the Pakeha was afforded the iwi of the Rohe Potae, as settlement came, ‘not in single spies but in battalions.’

By 1907, Maori throughout the Rohe Potae had already sold one third of their territory to the Crown. In addition, they had allowed cutting rights to timber companies over an area of 60,000 acres and had leased (or under negotiation to lease) over 125,000 acres.¹²⁵ Accused by the settlers of blocking open settlement, Maori in the Rohe Potae were forced to act on the future management of their lands. However, although anxious to remain in occupation of their lands and have them made productive as soon as possible, iwi throughout the Rohe Potae were divided in opinion as to the best method of opening their lands to settlement whilst maintaining control.

The tribes with land in this region (Ngati Maniapoto, Ngati Haua, and Ngati Raukawa) were, chiefly in consequence of the Waikato and Taranaki wars of the mid-nineteenth century against the Crown, divided into factions; their differences ‘colouring’ their proposals made for the settlement of their lands. One faction who followed Te Whiti, desired to be left alone to do with their lands as they pleased. Another group, however, in sympathy with the Waikato-based King Movement (Kingitanga) under the leadership of King Mahuta and the local MP Henare Kaihau, was opposed to any system of administration that restricted freedom of disposition.¹²⁶ This opposition was primarily founded on distrust, and past experiences with Pakeha law and justice. These differences amongst Maori were emphasised at meetings held in both Waahi and Huntly in the early part of May 1907. Large numbers of Maori were present, and all unanimously asked for full power to deal with their lands as the owners pleased, and objected to the Stout-Ngata Commission inquiring into their lands.¹²⁷

¹²⁵ AJHR 1907, G.-1B, p.3., and p.7.

¹²⁶ Following the Government intrusion into the King Country in 1883, the Waikato people, supporters of the Kingitanga, who had sheltered in the King Country since the war, had returned to live on scattered reserves in the Waikato.

¹²⁷ AJHR 1907, G.-1B, pp.5-7.

A third faction in the Rohe Potae, labelled by the Commission as the 'progressive party' recognised the necessity for a comprehensive system of administration, which would open large areas of land for general settlement whilst reserving areas adequate for the occupation of the present owners and for their use and training as farmers.¹²⁸ It was an initiative taken by this third party embodied in a memorandum addressed to the Commission which drew together some well-thought out ideas by Maori on maintaining the future control over their lands.

The Commission opened at Te Kuiti on 24 May 1907, and sittings were held there and in Taumarunui and Otorohanga until 6 June. During the sitting at Te Kuiti, the Commission received a set of proposals signed by the owners of various blocks within the Rohe Potae. John Ormsby, of Ngati Te Waha and Ngati Pourahui hapu of Ngati Maniapoto¹²⁹, acted as spokesman for his iwi, and formally presented a document dated 28 May 1907, which embodied various suggestions agreed upon by the people for dealing with their lands. The aim was to suggest to Stout and Ngata how Ngati Maniapoto wished to manage their lands, and not to have the Commission dictate to the people what should be done - as Stout in particular had been inclined to do in various other sittings. Having been affected by Maori land legislation that had proved harassing, and in their words, 'entirely against progressive settlement', Ngati Maniapoto delivered their list of proposals to the Commission which included how to protect and effectively settle their lands.

The following is the text of the document submitted:¹³⁰

To Sir Robert Stout, President, and Apirana Turupa Ngata, member of the Commission appointed to inquire into questions affecting Native lands [sic] and the conditions under which they are held.

Greetings, - We, the undersigned, members of the Ngati Maniapoto tribe, on behalf of ourselves, and our relatives, who are owners in the various blocks of land within the Rohe Potae...respectfully desire

¹²⁸ Ibid.

¹²⁹ John Ormsby (Hone Omipi) was of Ngati Te Waha and Ngati Pourahui hapu of Ngati Maniapoto. Educated by his father, Ormsby first rose to prominence in the 1880s as a protégé of the great leader Wahanui Huatare. It was a time of growing conflict between Tawhiao and Rewi Maniapoto over tactics to be adopted in the face of the increasing Government pressure to "open" the King Country. While Tawhiao maintained the autonomy of the Kingitanga and disagreed with the Government's suggested compromises, Ngati Maniapoto signalled their intention to work towards solutions to land and other problems. As part of this co-operation, they accepted the establishment of the Kawhia Native Committee under the *Native Committees Act 1883*. Ormsby was its first Chairman. The authority of leading chiefs supported his chairmanship. They in turn were keen to make use of his considerable skills in speaking and dealing successfully with Pakeha officialdom. In his capacity as Chairman, Ormsby presented the Maori concerns. They were anxious to protect their people from losing their land through freehold sale, but were prepared to grant leases - very similar to the proposals Ormsby espoused in the list given to the Commission. Ormsby was also a successful sheep-farmer whose ventures encouraged other Ngati Maniapoto to the same feats, he had an 'unrivalled knowledge' of civic, legal and government procedure as they affected Maori, and his advice was highly valued and eagerly sought. (NZDB, Vol II, pp.367-368., and Tui Adams, Ngahinaturae Te Uira and Ann Parsonson, 'Behold a Kite Flies Towards You': the Kingitanga and the 'Opening' of the King Country', NZJH, Vol. 31, No. 1., (April 1997), pp.99-116.) Other than presenting the specific memorandum to the Commission, Ormsby often presented the evidence for other Maori owners, and frequently appeared before the Commission in relation to many blocks throughout the King Country and Waikato.

¹³⁰ Copy of the original document held in Papers relating to the work of the Native Land Commission in the King Country, National Archives, MA 78 Item #13a. Document also printed in Commission's report on the region, AJHR 1907, G.-1B., Local newspapers also carried copies of the document, see especially The King Country Chronicle, 31 May 1907, and The Gisborne Times, 31 May 1907.

to bring under your notice, that for nearly twenty-five years we have endeavoured to establish satisfactory methods of utilizing our lands. But, notwithstanding all our efforts, the laws affecting Native lands have proved harassing and entirely against progressive settlement. The Maniapoto-Tuwharetoa District Maori Land Board, set up under the provisions of the *Maori Lands Administration Act 1900*, and its amendments, has been five years in existence, and while it has done good work, its usefulness has been limited by the many defects in the Act, and by the failure of the Government to provide the Board with the necessary funds for its successful working. Being cognizant of the purposes for which your Commission has been set up, and having heard your words of explanation and advice, we beg to submit the following suggestions as a basis upon which to carry out some reforms for the protection and effective settlement of our lands.

1. All lands to be administered by a board with extended powers, and under conditions similar to the provisions...of the *Maori Lands Settlement Act 1905*. The members of such board shall be men having special knowledge of land settlement. The President to reside in the district.
2. Practical farmers to be appointed as instructors, and paid by the State. They shall travel through the district giving advice in practical farming, and where necessary, supervise the expenditure of loans.
3. Loans under the *Advances to Settlers Act*, be granted to Maori with the approval of the Board, and, when necessary, expended under its direction. Where Maori prove incapable, the Board may take and lease the land.
4. Papakaingas to be inalienable.
5. Land in suitable areas to be set apart for farming by the owners, and also reserves for minors.
6. Surplus lands to be leased or sold by auction.
7. The Board to have discretionary powers, either to withhold or to direct the expenditure of rents and the proceeds of land sales, so as to prevent squandering.
8. Exchanges of land to be simplified.
9. Sales of land to the Crown in this district to be discontinued.
10. All restrictions to be removed from lands of capable Maori, [conferring upon them the freedom to deal with their own properties].

Speaking before the Commission following the presentation of the proposals, John Ormsby stated that the Maori Land Boards were useful bodies and would probably have been able to resolve the difficulty of settling Maori lands had they been given full powers and been supported by the Government. One of the reasons advanced before the Commission for the non-settlement of Maori lands was that the Government went on buying from the Maori, even though those lands had been handed over to the Maori Land Board to administer. Cases in point were stated to the Commission, affecting about 50,000 acres, and examples included situations where the fee simple had been handed to the Maniapoto-Tuwharetoa Board, and that body had been unable to deal with the lands owing to want of funds.¹³¹ After the blocks had been tied up for some years the Maori owners sold to the Government. This had the effect of shaking the confidence of the Maori in the Boards, and also explains the desire of Ngati Maniapoto set out in their proposal, that Crown purchases of their land should cease.

Furthermore Ngati Maniapoto felt that previous Presidents of the Maniapoto-Tuwharetoa District Maori Land Board neither knew the region nor understood the people, and thus could not have had the people's best interests at heart. Their proposal to have the president of their board reside in the district was based on this experience, and they hoped to avoid the problems of an 'out-of-touch' Land Board. Nevertheless, despite all their anxieties with regards to Maori Land Boards, Ormsby

¹³¹ *King Country Chronicle*, 31 May 1907.

did ask that future leases of Ngati Maniapoto lands be offered through the Maori District Land Board as an agent. He was not satisfied that leasing by direct negotiation between owners and intending lessees secured the best terms.

Among the proposals was one which asked that land in suitable areas be set apart for farming by the owners, and that practical instruction be given by travelling instructors and financial assistance afforded by the State under direction of the Maori Land Board. Stout and Ngata noted during their visit to the region that the area already under profitable occupation by the Ngati Maniapoto was very small, and little had been done by owners to start farming on an efficient scale. The Commissioners thus appeared supportive of such ideas to encourage and nurture Maori farming.¹³²

Indeed, the Chairman of the Commission, Stout, expressed agreement with the majority of the proposals, but took exception to the proposal 'to remove all restrictions in the case of capable' Maori. He foresaw great difficulty in declaring 'a Maori to be capable', and said the system would be open to abuse from Pakeha interested in securing land from Maori. Instead, Stout rather thought that the other idea of putting all lands up for sale or lease by public auction was more desirable.¹³³ Apparently, however, Stout overlooked the fact that an earlier suggestion asked for the appointment of a representative board, endowed with power to act for the benefit of Maori, and composed of 'men of integrity' acceptable to both Maori and Pakeha. It would seem then that although Stout had a wide experience of politics, and a broad knowledge of human nature, he was evidently convinced that there was a wide-spread conspiracy among Pakeha to rob the 'incapable' Maori of their land. Noting the real dilemma that he faced, the only way Stout could see to protect Maori from such manipulation was to shackle the whole 'race' with restrictions for their protection.

Nonetheless, the demands would appear to have been not at all unreasonable, and indeed showed some willingness to compromise with the Government. In particular, Ngati Maniapoto wanted all sales of their land to be prohibited, yet they were still willing to offer up surplus lands for public leasing. The list of proposals also produced some viable initiatives for the future control of Maori land by Maori. Interestingly this action by Maori - seen as somewhat bold for the times - received positive press, and indeed the editor of the King Country Chronicle, noted that 'a striking feature in connection with the proposals was that the Ngati Maniapoto were only asking what the Maori had been doing so for many years; to maintain control and management of their own remaining lands.'¹³⁴

However, this initiative created dilemmas for other Maori in the area, with a section of Ngati Maniapoto objecting to this memorandum and remaining hostile throughout the Commission's life to having their lands dealt with by anyone but themselves. Labelled by Stout and Ngata as the 'oppositionists', they were members of the Ngati Rereahu, Ngati Whakatere, Ngati Matakore, Ngati Tutakamoana, Ngati te Ihingarangi, and Ngati Rora hapu of the Ngati Maniapoto iwi. It is unclear from the

¹³² See Chapter Six for Commission's recommendations and comments which promoted the idea of 'profitable' Maori farming aided by government education and finance.

¹³³ Discussion of Ormsby's proposals as conducted during Commission sitting in Te Kuiti, reported in The Gisborne Times, 31 May 1907.

¹³⁴ King Country Chronicle, 14 June 1907.

evidence whether or not this group were supporters of the Kingitanga, but it is likely that they were.

In particular, they rejected the statements made to the Commission by John Ormsby, whom they believed wrongfully assumed to represent the views of the King Country Maori. In a counter-claim signed by sixteen people, their proposals forwarded to the Commission made it clear that they wished to deal with their lands, by sale or lease, direct with the purchaser or lessee, without the interference of Maori Land Boards.¹³⁵ An important concern featured in their evidence was thus that dealing with the Land Boards further removed their own control over the land, and their general desire was to escape from the trammels of the Boards, and deal directly with Pakeha.

Nevertheless, although Maori in the King Country were at times hostile and antagonistic towards the Commission, and although the hapu were divided as to the best method of opening their lands to settlement, they all were anxious to have their lands made productive as soon as possible. Realising that the chief Maori concern was to deal with their own lands, Premier Joseph Ward appealed to this feeling among Maori at a meeting in Ngaruawahia in March 1908. He advised them to make known what lands they required for their own use and occupation and what lands they were willing to make available for lease or sale. He did not suggest that the Commission should do this, but advocated that the Maori themselves should take the initiative.¹³⁶ In doing this, Ward was trying to get the people to do exactly what the Government wanted, which was more land for Pakeha settlement, but he was also aware of their resentment at the apparent interference of the Government Commission. Ward was shrewdly trying to turn this strength of feeling around by suggesting to the people that they themselves could manage the process of deciding the future disposition of their lands, implying that Maori could retain control.

The success of this appeal by Ward to the 'independent spirit' of the 'oppositionists' helped conquer some of the hostility Maori had shown towards the Commission examining their lands, and when later dealing in detail with blocks of land, many Maori in the King Country voluntarily offered a large area for lease and sale to the highest bidder.

In the Waikato, the bitter history of the region and the legacy of raupatu ensured that the Commission were mostly unwelcome in the region, and the work of Stout and

¹³⁵ The following is a full copy of the notice brought before the attention of the Stout-Ngata Commission, signed by sixteen Maori owners:

"We, the undersigned, being members of the Ngati Rereahu, Ngati Whakatere, Ngati Matakore, Ngati Tutakamoana, Ngati te Ihingarangi, and Ngati Rora hapu residing and holding lands in the Rohe Potae or King Country desire to bring under the notice of the Commission now sitting the following:-

1. That we object to the statements made to the Commission by John Ormsby who assumed to represent the views of the King Country Maoris[sic], on the grounds that such statements do not represent in any particulars, our views on the questions to be ascertained by the Commission with regard to our lands.
2. That we wish to deal with our lands, by sale or lease, direct with the purchaser or lessee, without the interference of any Native Land Board or Council, always reserving for each Native, sufficient land for a papakainga.
3. That this was the decision arrived at amongst us at the recent Native meeting held at Waahi, and we desire to adhere to that decision.

Papers relating to the work of the Native Land Commission in the King Country, National Archives, MA 78 Item #13b. Copy of notice also printed in AJHR 1907, G.-1B.

¹³⁶ Copy of speech in Waikato Argus, 20 March 1908.

Ngata proved difficult and laboured. There, they encountered much resistance from people who detested any further government interference in the management of their own lands. Furthermore, the Waikato was also characterised by a split in the loyalties of the people - those who followed the Kingitanga under the leadership of Mahuta, and those who had seceded under the Ngati Haua leadership of Tupu Taingakawa. Stout and Ngata were thus required to delicately deal with each group and their often conflicting wishes for the future use of the land.

As a result of raupatu, there was very little land left in Waikato proper to be brought before the Commission, and Stout and Ngata only dealt with a few thousand acres in the area. Rather, the Commission examined lands which bordered the Waikato such as Manukau, Thames, and Kawhia. Many Kingitanga supporters lived in these districts as there was no land in Waikato, and struggled knowing that the Commission was investigating how much "surplus" land they had to offer for Pakeha settlement, when many of their relatives in the Waikato had no land to live on at all.

The Waikato sittings were therefore highlighted by the antagonism its people felt towards the Commission, where opposition was primarily founded on the distrust of, and past experiences with, Pakeha law and justice. Deeply suspicious of Pakeha governments, and now the Commission, the Waikato people were very forthright. With a history of unprovoked war against them, and punishment by land confiscations, Maori were not willing to have the control of their remaining lands removed again. It is important to note that many Waikato people of course had no lands left to bring before the Commission. Maori in the Waikato were opposed to any system of administration that restricted freedom of disposition of their land, and thus observed the Stout-Ngata Commission with suspicion and distrust. They could recall former commissions to mind, and remembered that they also in their reports recommended many things for betterment of Maori - and nothing had come of them.

In illustration of this, two Maori were heard discussing the visit of the Commission to the Waikato district. One of them traced a square in the sand; 'that', said he, 'is the Maoris' papakainga.' Tracing another square; 'that', said he, 'is the Maoris' farms', and on the third square was land to be leased, and on the fourth, land to be sold to the Pakeha for the Maori owners' benefit. Asking his friend, 'What end you think the Government begin?', the speaker, remembering former commissions, dubiously shook his head, and pointed to the fourth square.¹³⁷

Nevertheless, in spite of their displeasure at having the Commission in their district, there were two general meetings of all Waikato owners, held in the Ngaruawahia Town Hall in May 1908 to decide on what they, the Maori owners, wanted done with their remaining lands. The Commission also held sittings in both Huntly and Kihikihi, and on each occasion lists were handed to Stout and Ngata showing them how the people wished to dispose of their lands. On behalf of their people, King Mahuta, acknowledged leader of the Kingitanga, and Henare Kaihau (Ngati Te Ata), adviser to the Maori King, and also MHR for Western Maori, then met Stout and Ngata in both Wellington and Auckland.

¹³⁷ This story was relayed in the Waikato Argus, 18 May 1908.

Kaihau did not make it easy for the Commissioners however, and frequently organised to meet Stout and Ngata, and then failed to show up, was occupied with business elsewhere, or did not have ready the necessary schedules which showed acreages and titles to the blocks in the Waikato. This forced the Commission to regularly adjourn their business in the Waikato and delayed their progress. In the early days of the Commission, Kaihau had written condemning the work of the Native Land Commission, claiming that it was forcing a condition on to the Maori people who were not ready to receive it, and further restricting Maori initiative in dealing with their own land.¹³⁸ He obviously stretched the patience of the Commission, leading an exasperated Stout to comment in a letter to Ngata, that Kaihau had failed to keep another appointment and delayed meeting the Commission for another month. 'What can you do with people like these?' concluded Stout.¹³⁹

However, in 1908 after the Commission's visit to the Waikato, Kaihau with the support of Mahuta, was largely responsible for a report sent to Carroll proposing a compromise to the issue of utilisation of 'surplus' Maori land.¹⁴⁰ In answer to the Government admonition that the lands should not be allowed to lie idle, and that the people should busy themselves in agricultural pursuits, the report comprised suggestions which had been laid before Maori people at the large meeting in Ngaruawahia in March 1908. It embodied the wishes of Maori interested in selling certain areas of land in the Waikato, and between 1800 and 2000 Maori signed a statement in support of the document. The report asked that lands to be set aside for papakainga were to be reserved for ever, whilst blocks were also to be reserved for occupation and farming by Maori themselves. And further as to farming, each individual was to have the right to work their land in their own way, and with the assent of a properly constituted body, were to be able to apply for financial aid.

Certain portions of land were to be set aside for lease and for sale, either by auction to the highest bidder, or by exchanges between Maori themselves. As to the sale of lands, they were to be acquired by the Crown at a value agreed upon by both parties. Rather than be paid directly to the owners, the purchase money was to be placed in a

¹³⁸ This was a common catch-cry of Kaihau's. The son of Ngati Te Ata chief Aihepene Kaihau, who also had tribal affiliations with Ngati Urupikia, Ngati Kahukoka, and Ngati Tipa, Henare Kaihau was elected to Parliament in 1896 as the MHR for Western Maori. Throughout his fifteen years in Parliament, Kaihau spoke on many issues concerning Maori people, always referring to the Treaty of Waitangi as a basis for their rights. Deeply concerned about the effects of land confiscations in Waikato in particular, Kaihau lamented what he saw as unkept promises made by Premier Seddon and Native Minister James Carroll to deal with this issue, and repeatedly reminded the government of this obligation. He argued vehemently against a number of the Maori Land bills introduced into the House between 1897 and 1910, and the restriction they imposed on Maori initiatives in dealing with their land. [See in particular his protest against the *Native Land Settlement Act 1907*, which related directly to the operations of the Commission, in the discussion of that Act in the following chapter] The unwillingness of the government to make land laws more equitable hardened him against future land legislation, and he argued passionately that these laws were trampling Maori rights and mana. During 1906-1909 he turned his attention to the idea of re-establishing a Maori parliament, following the decline of the Kotahitanga movement in the 1890s. As a staunch supporter of the King Movement, the new parliament was to be centred on Mahuta. The aim was to rally all Maori leaders, devise a plan of self-determination and fight unjust land laws. (*NZDB*, Vol II, pp.250-251.)

¹³⁹ Letter, Stout to Ngata, June 1908, Papers relating to the work of the Native Land Commission in the Waikato, National Archives, MA 78 Item #8.

¹⁴⁰ Copy of 'Report to the Minister of Native Affairs, As to suggestions laid before the people at the Ngaruawahia meeting, 19 March 1908, ... to deal with the land question...', Papers relating to the work of the Native Land Commission in the Waikato, National Archives, MA 78 Item #8.

general Maori fund at the Bank, where on the instruction of an agricultural inspector, monies could be paid to any individual owner for the purchase of stock or other properties required for their farm. Lands set apart for leasing were to be managed by a 'properly constituted body', with rent-monies to be paid to those persons with interests in the leased land.¹⁴¹

It was also represented to Stout and Ngata that blocks or parts of blocks were to be sold for 'mana', with the proceeds of these sales being held in trust so as to form a 'mana' fund where they would be used for re-purchasing historic lands and lands of great cultural importance, such as Ngaruawahia and Taupiri - places which from the earliest times were associated with the mana and prestige of the Waikato iwi. Using the money raised through the sale of lands Kaihau wanted to buy back confiscated land at Taupiri and Ngaruawahia where Mahuta could then establish a township and parliament, and uphold the mana of the Kingitanga. It was hoped in other words, to use the Commission to restore a small part of the Kingitanga heartlands to the people. The Commission was willing to recommend such an idea to the Government as long as the President of the Waikato Maori Land Board was associated with Mahuta and Kaihau as trustees for the proceeds of the sale of these lands, and that no disbursement of any proceeds should be made without the consent of such President.¹⁴²

The Waikato iwi thus delivered their proposals to the Stout-Ngata Commission, however by no means were they willing to simply let the Commission enter their district and dictate to them how their land should be utilised. At first the people had tried to prevent the Commission from investigating at all, and then Kaihau had made progress difficult by holding up the flow of information. Nevertheless, Waikato Maori did compile their own lists of demands and ideas and presented these to Commission for consideration. In response, and apparently in support of the plight of the Waikatos, the Commissioners implied that any further land dealings in the Waikato should be halted. Stout and Ngata noted that the lands currently held by the Waikato and kindred tribes were but a remnant of the lands they once possessed. Most of the tribal land had been confiscated and much had since been sold. The Commissioners also concluded that the area left, considering the poor quality of the land and large number of people expected to live off it, was not very large at all.

However, this thin thread of co-operation the Commission was weaving throughout the Waikato was further complicated by Stout and Ngata having to deal with a complex political situation which highlighted the differing wishes of two factions within the Waikato and King Country regions. Their examination of the Waikato was not simply "cut and dried", as the Commissioners were required to approach the owners of lands in the Waikato and King Country separately, because of dispute between Tupu Taingakawa and his Ngati Haua people, and those who followed King Mahuta.

The counties of Manukau, Ohinemuri, Waikato, Thames, West Taupo, Kawhia, Waitomo, and Coromandel, comprised the bulk of the lands owned by the tribes forming the Waikato Confederacy of Tribes. Maori of these lands, since the inception

¹⁴¹ Ibid.

¹⁴² AJHR 1909, G.-1A, p.2.

of the King Movement and the selection of Potatau Te Wherowhero as King, had been united under the mana and leadership of Potatau and his descendants down to King Mahuta. Whom at the time of the Commission the Waikato Confederacy of Tribes currently acknowledged as leader with all the ancient mana that belonged to the office of King. Tupu Taingakawa te Waharoa (commonly known as Taingakawa), of Ngati Haua, was also once associated with Mahuta, and was said to be called Mahuta's Prime Minister.

Taingakawa was the second son of the 'ablest of the old Waikato chiefs' - Wiremu Tamihana or better known as 'William Thomson the King Maker'. During Taingakawa's teens and early adult years, his people the Ngati Haua were living in turmoil. But political and land pressures led Wiremu Tamihana to associate himself with the King Movement in order to oppose Pakeha encroachment. Wars in Taranaki and Waikato followed, and by the time of Tamihana's death in 1866 many settlers regarded him as a rebel, the architect of an alliance designed to drive Pakeha from the North Island.

Although, Taingakawa had an elder brother, from 1867 on he took on a leadership role and was seen by the colonial authorities as his father's heir. In 1871, the King Movement invited Ngati Haua to come inland and join the King's party, and promote the policy of isolation from Pakeha. Ngati Haua's response was divided: some were enthusiastic supporters of the King Movement; others were neutral; still others were definitely opposed. About 1873 Taingakawa took his section of Ngati Haua to live at Te Kuiti, then the centre of the King Movement. Although Taingakawa suffered some harassment at the hands of other King supporters, he nevertheless remained an important supporter of the King Movement.¹⁴³ King Tawhiao's Kauhanganui Council (Great Council) probably held its first session on 2 May 1889. Certainly from 1891, Taingakawa was the Speaker of the *whare ariki*. He was also described as the *tumuaki* (leader) of the kingdom, a position similar to that of prime minister.

Tawhiao died in 1894, and while his body lay in state at Taupiri, Taingakawa 'crowned' Tawhiao's son, Mahuta, as the third King. The succession however did not interrupt Taingakawa's agenda of constructing a Maori kingdom with a full measure of Maori self-government and laws. According to Michael King, Taingakawa was an 'ambitious, energetic and obsessive man who did not know the meaning of compromise'.¹⁴⁴ He took his title of 'tumuaki' seriously, and believed that the position was an institutional part of the kingship, and that he shared and upheld the mana of the King. At a meeting with Premier Seddon in 1897 to discuss the aspirations and grievances of Mahuta and his people, Taingakawa explained that they wished to live at peace under the authority of the Queen, but that their primary aim was to be empowered under the Treaty of Waitangi to administer their own affairs. Taingakawa also reminded Seddon of the 'evil effects' of native land legislation on Maori.¹⁴⁵

However, back in 1896, King Mahuta had successfully sponsored a Ngati Te Ata relative, Henare Kaihau, for the Western Maori electorate. And from the late 1890s, with Kaihau acting as intermediary, Mahuta was in regular contact with Seddon, and

¹⁴³ *NZDB*, Vol III, pp.518-521.

¹⁴⁴ Michael King, *TE PUEA: A Biography*. Auckland, 1977, p.67.

¹⁴⁵ *NZDB*, Vol III, p.519.

the Native Affairs Minister James Carroll. Mahuta was an advocate of accommodation between Maori and Pakeha. Seddon, sensing and taking advantage of the King's goodwill, 'set out to woo him with the Liberal Government's programme of opening up more Maori land to Pakeha settlers.'¹⁴⁶

The beginnings of a split between Taingakawa and the King Movement arose from these negotiations in 1898 with Mahuta, Kaihau and Seddon. Mahuta's final acceptance of a seat on the Legislative Council, and his encouragement of the Waikato District Maori Land Council was the final straw. Taingakawa was not given to this kind of compromise, and instead firmly repudiated Seddon's paternalistic plans for proposed Maori councils and native land boards. Some also saw Mahuta's invitation to sit on the Legislative Council as an attempt to tame the King Movement and 'to slot it into a Pakeha pigeon-hole.'¹⁴⁷ Others were incensed and blamed Kaihau for the appointment, who they said was chasing personal glory and reward.¹⁴⁸

Rejecting any compromise with the colonial government, Taingakawa instead chose to relentlessly pursue the original King Movement programme, of an independent Maori kingdom limited only by its acknowledgment of the authority of the British Crown. Taingakawa advocated a hard line on the raupatu issue - immediate return of confiscated lands, and was in favour of Waikato and Maori tribes generally governing themselves as far as possible without reference to Pakeha institutions. Differences also arose between Mahuta and Taingakawa as to the management of the tribal lands, and in 1907 Taingakawa was instrumental in setting up a federation of the Maori tribes of the North and South Islands, which was a revived version of Te Kotahitanga and demanded Maori autonomy and self-government. All this at a time when Mahuta had been trying to steer the Kingitanga into contact with political parties and the government, and exploring gradualist policies.¹⁴⁹

In March 1907, Prime Minister Ward and Native Minister Carroll met Taingakawa and his people at Waharoa and after that attended a meeting with Mahuta and his people at Ngaruawahia, in an attempt at mediation. However, differences between these two chiefs appeared to accentuate, resulting in the secession of a group of Kingitanga supporters from the movement. Predominantly members of the Ngati Haua iwi, this 'break-away' group, which owned various lands in the Piako and Raglan counties, came under the leadership of Taingakawa. Ngati Haua and kindred hapu thus looked to Taingakawa as their chief, whilst the rest of the Waikato iwi maintained allegiance to the King Mahuta.¹⁵⁰

The position of the tribes acknowledging the leadership of Mahuta, differed (at times quite bitterly), from the iwi which seceded under Taingakawa. The cause of much of this tension goes back to Raupatu, and the fact that some hapu avoided confiscation

¹⁴⁶ King, *TE PUEA*, p.31.

¹⁴⁷ *Ibid.*, 31.

¹⁴⁸ Kaihau it is alleged, saw himself rather than Tupu Taingakawa as executive head of the King Movement. In his many proposals to Parliament, Kaihau always declared or inferred that he would be its "premier". Michael King criticised Kaihau severely in his book on Te Puea, though this gave great offence to Kaihau's descendants who maintain his support of the Kingitanga.

¹⁴⁹ King, *TE PUEA*, p. 68.

¹⁵⁰ Papers relating to the work of the Native Land Commission in the Waikato, National Archives, MA 78 Item #8.

whist many people had no land left at all. In particular, Ngati Haua were not subject to raupatu, and at the time of the Commission had lands left. The underlying question of who had lands, and how those who had none coped, created much tension in the Maori communities throughout the King Country-Waikato. The Commission's activities were mostly concerned with Waikato lands that had escaped raupatu, hence Ngati Haua and Taingakawa, who had lands which bordered the raupatu area, were such a prominent feature of the Commission's proceedings. This very fact may help explain some of the tensions described here.

The lands of Taingakawa's people were to be administered separately to the rest of the Waikato iwi, as his movement sought the betterment of the Maori people. Taingakawa wanted Maori placed on the same social and political platform as Pakeha, and insisted on the ratification of the Treaty of Waitangi. He also demanded redress for Maori grievances, and in support of these ideas, over 20,000 Maori signed articles of association under Tupu Taingakawa te Waharoa.¹⁵¹

Because Taingakawa had seceded from the Waikato Confederacy, he was strongly opposed to his lands being dealt with by the Government or Commission on the same basis as other Waikato lands, and was particularly adverse to the report written by Kaihau. Although much of the region was owned and occupied by hapu who acknowledged the leadership of Mahuta, the Commission thus found it necessary to deal separately with the lands owned by Taingakawa and the hapu who recognised his mana and leadership. They had to be interviewed separately with regards to blocks which often lay in the same district, and given individual status quite separate from Waikato iwi which supported Mahuta and King Movement.¹⁵²

The Commission then held meetings of Taingakawa's people at Morrinsville, Thames, and Te Aroha in June and August of 1908. Members of the Ngati Haua and Ngati Maru, and also various people from the Ngati Raukawa, Ngaiterangi, and Ngati Maniapoto hapus, who supported the leadership of Taingakawa, were all represented.

Initially however, Taingakawa wired Carroll and tried to put off the first Commission sittings at Morrinsville, on account of what Carroll described as some unexplained 'conundrum'. Carroll replied that he thought Taingakawa was anxious to get his lands fixed absolutely to facilitate leasing, farming and the setting aside of papakainga, and therefore had given the services of the Commission to that end.¹⁵³

Ngata was surprised at this delay, for he had been led to believe that Taingakawa and his people were anxious to meet the Commission. It seems, noted Ngata, that Mahuta and Kaihau had summoned Taingakawa to confer with them, in an attempt to persuade Taingakawa not to refer Ngati Haua lands to the Commission. Kaihau wished all matters to be put directly before the Government through himself, and did

¹⁵¹ Waikato Argus, 18 May 1908.

¹⁵² It is important to note however, that although the split was still very bitter, the situation tense, and caused many difficulties at the time of the Commission, Taingakawa's split with Mahuta was never total. By 1909 discussions between Taingakawa and the King Movement had begun again, and in 1910 a covenant confirmed Taingakawa as tumuaki of the Maori kingdom. (NZDB, Vol III, p.520.)

¹⁵³ Telegram, Carroll to Ngata (explaining Carroll's earlier discourse with Taingakawa), 16 June 1908, MA 78 Item #8.

not want to be bothered with the intermediary role of the Commission. 'It seems he wants to be entitled to all the credit', quipped Ngata. Nevertheless, although Kaihau tried to dissuade Taingakawa from fully co-operating with the Commission, Ngata was able to secure a meeting between Taingakawa and the Commission. 'I have no doubt that Tupu will abide by his word,' wrote Ngata, 'but he is apparently fencing with the Waikatos and desires time.'¹⁵⁴

As the split with Taingakawa and the Waikato Confederacy had shown, Taingakawa and Kaihau differed in their opinions as to the best method of opening up their lands to settlement. Loath to compromise, as he would later be described by Michael King, Taingakawa would not do what Kaihau wanted, and was also not entirely responsive to the inquiries of the Commission. According to King, Taingakawa had a propensity for pushing proposals to extremes, was a dogged pursuer of arguments, and antagonised those with whom he negotiated.¹⁵⁵ He tended to sway back and forth, the one moment willing to have the Commission investigate his lands, the other issuing demands of his own. In asserting his mana and leadership, Taingakawa would be told by no-one how to approach the future settlement of his lands. Decisions were made when he was good and ready, and with evidence still to be heard from many other Maori owners, this attitude tended to slow the progress of the Commission throughout his region.

Nevertheless, Taingakawa did eventually address the Commission at some length, during which he elaborated on his wishes and desires as to the disposal of his people's remaining lands. Members of the previously mentioned hapu, who also attended the sittings, all spoke and supported Taingakawa in his statements. Taingakawa and his people had been given to understand at the 1907 Waharoa meeting with Carroll and Ward, that they would not be compelled to sell any of their lands left to them, but that they would be permitted to lease their lands not required for immediate use. The proposals they then delivered to the Commission over a year later in 1908 were based on this understanding.

Taingakawa stated that their desire, which had been expressed at a general meeting of Maori owners held at Waharoa, was that his people should be left in possession of the few lands they now held and be allowed to deal with them as they pleased. They objected to selling any of their blocks, and if they leased any portion they would do so themselves. Again the issue of control and disposition of Maori lands remaining in Maori hands was being raised. The Taingakawa group wanted to have all their lands conducted by a committee, which they would elect themselves for the approving of any land deal entered into. They also wished to reserve much of their land for Maori occupation, to be worked under the aforementioned committee. According to Taingakawa and his advisers, these resolutions, which were formalised in a written document presented at a later date to the Commission, were founded on Section 2 of the Treaty of Waitangi. Furthermore, they categorically rejected and disagreed with, the report and proposals which Kaihau had delivered to Carroll.

In response, the Commissioners pointed out to the Taingakawa followers, that their land could not be left in that position and that they should specifically select the areas

¹⁵⁴ Telegram, Ngata to Carroll, 16 June 1908, MA 78 Item #8.

¹⁵⁵ King, *TE PUEA*, 1977, p.59 and p.74.

they required for Maori occupation. The Commission was able to establish that a considerable area of the land held by Taingakawa's people was not being utilised, and that they had only recently taken to any extensive farming. Unsurprisingly, Stout and Ngata thus told them that if they wished to preserve their lands they must start and put them to profitable use, and that it was in their own interest to define the areas they required for farming. After some discussion Taingakawa determined to go and visit all his people in their various kainga and settlements, and ascertain their views. The Commission was thus adjourned till Taingakawa had accomplished this.¹⁵⁶

A later sitting was then held at Te Aroha, where the Commissioners were 'glad to learn' that Taingakawa's people had begun improvements of their lands throughout Piako and Raglan. In particular, they were encouraged to hear that a large area near the Waharoa settlement had recently been cleared and ploughed, with the gorse and noxious weeds also cut down. Letters sent to the Commission by both Taingakawa and others on his behalf¹⁵⁷ spoke of an aroused spirit of enthusiasm amongst the people for farming operations and improving their lands. And since the visit from Carroll eighteen months earlier, a considerable area had been cleared and made ready for agriculture. Nevertheless, as had been witnessed by the Commission throughout their travels, these hapu required the services of farming instructors urgently if they wished to succeed at becoming efficient farmers. 'This new movement needs guidance and an agricultural expert located amongst the people,' warned the Commissioners, for their 'first enthusiasm is apt to weaken if difficulties occur and if the results are not as satisfactory as they were led to expect.'¹⁵⁸

Furthermore, although Taingakawa had shown some interest in leasing his surplus land by public auction, his people showed a great antipathy to the local Maori Land Board in which they appeared to have no confidence. They told the Commission that they did not trust any body outside themselves dealing with their lands. In this connection, Stout and Ngata suggested that as it was mainly the want of confidence, probably the appointment of Taingakawa or his nominee, to act as a member of the Board whenever any of their lands were subject to inquiry, would perhaps 'do away' with the objection.¹⁵⁹ This proposal seemed to find favour with Taingakawa and his supporters, but still he would not produce for the Commission, a schedule of surplus lands which he was willing to lease.

Thus, although the Commission received suggestions from Taingakawa regarding some of his people's lands, Stout and Ngata found it very difficult to reach any agreement as to how the rest of their blocks should be dealt with. Although Taingakawa had publicly stated¹⁶⁰ that he and his people were strongly opposed to the sale of any Maori-owned land but did favour the leasing of any areas that were not in profitable occupation, the Commissioners found themselves increasingly

¹⁵⁶ Draft report of the Commission's encounters with Taingakawa, n.d., pp.1-6., Papers relating to the work of the Native Land Commission in the Waikato, National Archives, MA 78 Item #8.

¹⁵⁷ See; Telegram, Carroll to Stout, 26 June 1908, and also Memorandum, Anaru Eketone to Commission Secretary William Pitt, 26 June 1908, Papers relating to the work of the Native Land Commission in the Waikato, National Archives, MA 78 Item #8.

¹⁵⁸ Draft report of the Commission's encounters with Taingakawa, p.4., MA 78 Item #8.

¹⁵⁹ Ibid., p.1.

¹⁶⁰ For example, two such statements had appeared in both the Wanganui Chronicle, 6 April 1908, and the Bay of Plenty Times, 6 July 1908.

perplexed as no definite decision could be had from Taingakawa. The attempt by the Commission to open up his land for both Pakeha and Maori settlement must have at times appeared futile.

Thus, while both Kaihau and his King supporters, and Taingakawa and his people were urged by Stout, Ngata, and even Native Minister Carroll not to delay the work of the Commission, still they refused to readily comply with the requests of the Commissioners, and took their own time in deciding upon the best method of opening their lands to settlement. Ironically, both groups were similarly anxious to have their lands made productive as quickly as possible, yet refused to allow the Commission to suggest remedies.

Nevertheless, "go on in spite of them", was the advice given to the Commissioners by Carroll.¹⁶¹

This examination of the Commission's work in the King Country-Waikato has shown that there were two levels of difficulty for the Commission to overcome in the region. Firstly, the Commission had to deal with lands in the same region separately, because of the political tension between Taingakawa and the King Movement and the resulting delicacy of the situation, much of which related to the fact that some hapu had escaped raupatu whilst others had lost it all to confiscation. Taingakawa was trying hard to assert his own domination, and would not be seen to be doing the same as Kaihau and Mahuta. His decisions, although his own, were ever-changing, and were difficult for Stout and Ngata to obtain without compromising his mana. Secondly, the lack of trust with which both parties regarded the Commission, and their desire to prevent and disrupt its progress caused delays in the work of the Commission. Both wanted nothing to do with another government initiative and its Pakeha idea of justice. The history of the region and raupatu, had naturally embittered both the Waikato Confederacy and Taingakawa's followers, and the Commission was never going to have an easy time bypassing such hostility in its attempt to examine what lands remained in Maori hands.

It may be added that Stout was not patient with opponents of the Commission in one other case, who were adherents of the Kingitanga. Ngati Raukawa were the owners, with a section of Ngati Tuwharetoa, in the large Wharepuhunga Block of 73,114 acres, and demanded full power to deal with their lands as the owners pleased.

Representatives of Ngati Raukawa appeared before the Commission and asked that the block in question be withdrawn from the Commission's investigations. However, the Commissioners pointed out that the Commission only desired to confirm and give title to any ideas they might have for developing the land. The Ngati Raukawa would not be convinced, and stuck to their statement that they wished the block to be withdrawn from the Commission so as they could deal with the land in their own way. Consequently, the Commission was briefly adjourned to allow those who appeared at sittings to place the matter before their iwi. Nevertheless, if Ngati Raukawa could not reach any decision as to what they desired in the way of development, the Commission was to deal with the land arbitrarily in the manner

¹⁶¹ Telegram, Carroll to Stout, n.d., Papers relating to the work of the Native Land Commission in the Waikato, National Archives, MA 78 Item #8.

they thought for best for all concerned. Stout made it clear to them, as was becoming a common opinion of his, that the settlement of the country could not be delayed by either Maori or Pakeha. 'If Ngati Raukawa would not utilise their land other people must be found who will utilise it...' ruled Stout.¹⁶² Stout also warned the tribe that this kind of action would be injurious to hopes they had of reserving and maintaining the lands for themselves.¹⁶³ Stout and Ngata then tried patiently to coax the iwi into participation, attempting to draw out their wishes for the disposition of their land, and discovering what may have been available for lease.

However, their patience was not everlasting, and it can be noted in the evidence that Stout and Ngata did not take terribly well to those who were difficult, and simply continued on their way making recommendations as they saw fit. One such example can be seen in a reply sent by Stout to a member of the Ngati Raukawa iwi, who had been hoping to farm his and his family's share in the Wharepuhunga block. The author of the letter had been educated at Te Aute, and had plans to stock, improve and farm the land. Desirous of 'living on a higher level', the writer also hoped to induce his people, the Ngati Raukawa, to become more industrious and have more ambition in life. He certainly was not afraid of bureaucracy, and willing to stand up for his rights.

Quite unexpectedly, the reply from Stout was terse, and stated simply that, 'the owners [of Wharepuhunga] chose not to give us [the Commission] information and assistance, and if our recommendations for the land are not quite as the Maoris wished they have only themselves to blame'. In acknowledgment of the desire to "improve" himself and utilise the land profitably, Stout did add however that the 'chap' should write to the Native Minister at once and point out that he was wishing to work his own area of land.¹⁶⁴

The three case studies which have been analysed in this chapter, fittingly describe the kind of unique issues which Stout and Ngata were required to make recommendations on, and the interaction between Commissioners and people who had their own specific history with regards to land policy and administration. More importantly, they acknowledge the diversity of the issues which the Commissioners were asked to consider. And yet much of the evidence heard by the Commission centred primarily on the principle that Maori be able to retain control of the lands remaining to them; whether it meant remuneration for resources taken from their land, financial control and the right to administer the leasing of their lands, or acknowledgment of their Treaty rights as to the governorship of their lands.

In particular, the three examples have shown that the Commission was not just a one-way process whereby the Commissioners "took" from Maori and gave nothing in return. On the contrary, in regions such as Rotorua, the East Coast and King Country Waikato, Maori used the Commission for their own benefit, and to voice their concerns and protests. Thus, instead of waiting to have their land tied up in the

¹⁶² **AJHR 1907, G.-1B, p.6.**

¹⁶³ Miscellaneous Minutes, 23 May 1907, Papers relating to the work of the Native Land Commission in the King Country, National Archives, **MA 78 Item #13b.**

¹⁶⁴ Letter, Ernest Te Tana Stewart to Stout and Ngata, 16 June 1908; and the reply, Stout to Mr E. Te Tana Stewart, 24 June 1908, Papers relating to the work of the Native Land Commission in the King Country, National Archives, **MA 78 Item #13b.**

Native Land Court, Ngati Whakaue decided that to vest their land in the Commission would see positive action in terms of the future use of their land, rather than hanging on to it, and leaving it within reach of the Crown and its agent the Native Land Court. Arawa thus took advantage of the Commission in this way, to circumvent the Land Court and its gaining power over their land. Similarly, in the East Coast, the people used the Commission to publicise how successful Maori farming ventures could be, and to raise awareness of the people's potential as long as the Government intervened with finance and education. Furthermore, Maori on the East Coast also used the forum of the Commission to demand answers from the trustees and receivers who were administering their lands, and who they accused of mismanagement. Likewise, in suggesting that a mana fund be set up to buy back lands, Kaihau and King Mahuta looked to use the Commission in order to restore culturally important lands to the Waikato people, and Kingitanga supporters.

Therefore, these case studies have shown that Maori made the most of the Commission when it entered their districts, they highlighted their own particular concerns, and brought specific examples to the attention of the Commissioners. Overall, they appeared unafraid to state their rights, and ably offered up viable alternatives as to the settlement of their lands by both Maori and Pakeha. However, the concerns in each district were based on a unique set of circumstances, and Maori in Rotorua, the East Coast and King Country-Waikato set out to ensure that the Commissioners acknowledged this diversity, and made recommendations accordingly, rather than "lumping together" Maori concerns as one.

The recommendations made by the Commissioners in their reports are the subject of the following chapter.

CHAPTER SIX - The Commission's Reports and Recommendations

'We considered it our duty wherever possible to meet the Maori owners of the lands, and to ascertain from them their wishes with regard to the disposition and settlement thereof. While making ample provision to meet the views of the minority or of individual owners whenever possible, we were guided by the expressed wishes of the majority so far as they were ascertainable in the open sittings of the Commission, and we can say that with very few exceptions the recommendations we have...made in our reports were in accordance with the wishes of the Maori owners of the respective blocks.'¹

The reports written by Stout and Ngata throughout the duration of their work, followed the conclusion of sittings in each region, and the examination of the district. The decisions reached by the Commissioners were not based solely on their own single investigations, but were the results of sittings, data collection, evidence from both Maori and Pakeha, and professionals such as land-valuers and stock and land agents who had provided the Commissioners with neutral and necessary information. This chapter will explore more thoroughly the recommendations and conclusions that Stout and Ngata reached after two years of work, and how the concerns of Maori as heard in the sittings, were reflected in the reports written by the Commission.

In the ways described in the previous two chapters, the Commission proceeded section by section, block by block, and district by district throughout the North Island. After full investigation, guided more or less by the wish of the people whom the Commissioners had heard in their sittings and via correspondence, and taking into consideration the general position of the district through the examination of data, the Commission would consider its recommendations, and report to the Governor. Their reports also included schedules and figures which dealt with their recommendations in terms of acreages, proposed leases and sales, and specific blocks recommended for Maori occupation. The final reports of Commission as printed in the Appendices to the Journals of the House of Representatives (AJHRs), were the result of months of sittings, re-visits and written drafts worked on continuously by the Commissioners throughout 1907 and 1908. The task of the Commission was of no mean magnitude, and two years were to pass from February 1907 before the final report of the Commission was presented.

The Commission made recommendations in respect of 2 million acres. It recommended that about half be reserved for Maori people and that of the balance, 400,000 acres be leased and only 200,000 acres be sold. The remaining 400,000 acres were subject to special recommendations, and included timber leases, and lands outside the Commission's jurisdiction. It was considerably less than the Government had hoped for. Throughout the writing of their joint reports and recommendations,

¹ A review of the Commission's work by the Commissioners in their Final General Report, AJHR 1909, G.-1G, p.3.

Ngata and Stout worked closely together and seemed to be always in agreement as to the disposition of the 'surplus' Maori lands. Both of them felt that protecting Maori was a priority over opening up land for settlement, and at most sittings encouraged the people to take up farming and make successes of it themselves. Stout and Ngata also reminded Maori that if they could not work the land productively, they would lose it, for the Government was keen to see many Pakeha farmers settled.

Many of their recommendations thus focused on what Government needed to provide in order for Maori to successfully utilise their land, such as funding, and agricultural and technical education. Wherever possible Stout and Ngata recommended that Maori land remain in Maori occupation, and only offered up land to become available for public lease where Maori had voluntarily handed over the land. As Stout and Ngata began to draft their reports, their attitudes drew away from what Pakeha settlers wished to hear, and their emphasis was more on maintaining the lands for Maori, and setting up schemes whereby Maori would be taught to farm, and financed to do so. The Commission's reports generally reflected a supportive attitude to the concerns Maori had raised throughout the sittings.

Thus, this final chapter looks at the reports themselves as they were tabled before Parliament, and discusses some of the major recommendations and ideas raised by the Commissioners.

EARLY REPORTS

The Commissioners early reports which covered the Hawkes Bay, Whanganui, and King Country regions, made recommendations which gave rise to the *Native Land Settlement Act 1907*. The Act was passed quickly after the presentation of the first interim reports to provide both a means of giving effect to the recommendations, and to provide a fast and effective way of making the 'surplus' lands available.

Consequently, the later reports published by the Commissioners after the passing of the Act, had to base their recommendations on certain of its provisions. Stout and Ngata were not strong supporters of the Act, and indeed devoted one whole report to their criticisms of the legislation. Following that, their two general reports dedicated much time to the perceived failings of Maori land legislation, and also promoted greater roles for the District Maori Land Boards. Throughout both the general reports, and the numerous interim reports, the Commissioners were most insistent that wherever possible Maori should be encouraged to stay on their own land and farm successfully. To do this, the Commissioners maintained, the Government needed to take responsibility and provide Maori both with greater financial assistance and agricultural education.

The Commissioners made forty-one reports to the Governor-General on their work, thirty-nine interim reports, and two general reports. Although most of the interim reports related to specific recommendations concerning individual districts, some of the reports contained special suggestions relating to the whole issue of Maori land, and covered a wide field, including proposals for improvement of the Native Land Court and for the consolidation of the Native Land Laws. Special reports were also submitted which dealt respectively with the Orakei Native Reserve; part of the Waimarama Estate; and the operation of Section 11 of the *Native Land Settlement Act 1907*. The schedules to the reports contained the tabulated data relating to the

Commission's recommendations, and included a summary of the blocks and their acreages which had been recommended for lease, sale, Maori occupation, vesting in Maori Land Boards for administration, and papatipu lands to name a few.

An interim report was drafted for each district, and was usually completed a few weeks after sittings in the area had finished, and presented to the Governor sequentially throughout 1907 and 1909. The two general reports came after the passing of the *Native Land Settlement Act 1907*, and at the end of 1908 respectively.

Each report was constructed from the evidence heard at sittings from Maori owners, Land Board Presidents and land professionals who were asked to attend by the Commissioners, from the data and figures collected, and from Stout and Ngata's own research into the history of the district and any relevant legislation which might have had an effect on the area. Following this collation of information within each district, plans were drawn by the Commissioners outlining the shape the interim report was to take. Both Commissioners then set about writing the first draft, though occasionally one Commissioner was left to write the reports, whilst the other continued to hold sittings. However, the plans for each report were checked by both Commissioners, and prior to the first draft they had both agreed on the form the recommendations would take. Once they had completed a hand-written first draft, the report was generally typed up and revised.

The Commissioners asked that reports be translated into Maori and forwarded to the people, allowing them opportunity to consider the recommendations and make any necessary objections:

'We would like some printed copies of our reports [sent to the various counties where the Commission visited]...Maori would like to read what we have recommended about their lands as the newspaper reports are not full enough...We think that the Reports should be translated [into Maori] and forwarded to the Maoris in case they might wish to object to our recommendations.'²

On the whole Maori did not object to most of the Commission's recommendations. However, sometimes the Commissioners were required to re-visit a district in order to hold more sittings because the Maori owners had rejected the Commission's interim recommendations with regards to their district. The records hold many discarded copies of first-draft-reports, which often bore no resemblance to the final printed version. It seems that in some regions, Stout and Ngata wrote and re-wrote many different drafts until they were happy that they had covered all the issues raised by Maori owners, included all the blocks to be recommended on, and discussed any particular regional problem such as timber in Northland, tourist sites in Rotorua, and difficulties with the King Country townships.

The following table lists the reports presented to the Governor by the Commission, and are arranged in the order of their respective dates. The corresponding number of

² Telegram, Stout to Unidentified (under-secretary of Native Department perhaps?), n.d., Papers relating to the work of the Native Land Commission in the Thermal Districts, National Archives, MA 78 Item #12.

the parliamentary paper of the session in which it was laid before Parliament is shown against each report for purposes of reference.³

SCHEDULE OF REPORTS

No.	Subject	Date	No. of Paper	Session
		1907		
1	Waimarama Estate and Poukawa Reserve (Hawkes Bay)	20 March	G.-1	1907
2	Wairoa County	22 March	G.-1	1907
3	Whanganui District	22 April	G.-1A	1907
4	Rohe Potae (King Country)	4 July	G.-1B	1907
5	First General Report	11 July	G.-1C	1907
6	Supplementary Report on Nuhaka, King Country and Tutira	5 August	G.-1D	1907
7	Otawhao and Rakautatahi (Hawkes Bay)	16 August	G.-1E	1907
		1908		
8	Waiapu County	18 January	G.-i	1908
9	Waimarama, defining area for lease to Miss Meinertzhagen (Hawkes Bay)	8 February	G.-ii	1908
10	Cook County (first)	18 February	G.-iii	1908
11	Waimarama Estate, further (Hawkes Bay)	3 March	G.-1	1908
12	Rotorua County (first)	10 March	G.-1E	1908
13	On the operation of Section 11, Native Land Settlement Act 1907.	11 March	G.-1F	1908
14	Wanganui, Waimarino, Rangitikei, and Waitotara Counties	12 March	G.-1B	1908
15	Urewera Native District Reserve	13 March	G.-1A	1908
16	Whakatane County	23 March	G.-1C	1908
17	Tauranga County (interim)	28 March	G.-1D	1908
18	Waitemata, Rodney, Otamatea, and Hobson Counties	6 April	G.-1G.	1908
19	Rotorua County (further)	16 April	G.-1H	1908
20	Recommending Order-in-Council under Section 10, Native Land Settlement Act 1907, for lands in Hokianga, and Bay of Islands	11 May	G.-1I	1908
21	Similar recommendation for lands in Hokianga and Mangonui	15 May	G.-1I	1908
22	Whangarei, Hokianga, Bay of Islands, Whangaroa, and Mangonui Counties	10 June	G.-1J	1908
23	Tauranga County (further)	11 July	G.-1K	1908
24	Pakowhai Reserve (Hawkes Bay)	11 July	G.-1L	1908
25	Opotiki County	17 July	G.-1M	1908
26	Rotorua County (further)	18 July	G.-1N	1908
27	Rohe Potae (King Country), comprising Waitomo, Awakino, Kawhia, and West Taupo	19 July	G.-1O	1908

³ The table was constructed from the Schedule of Reports as created by the Commissioners themselves, and published in their final General Report, **AJHR 1909**, G.-1G, p.4.

	Counties			
28	Orakei Native Reserve	30 July	G.-1P	1908
29	Summary of Reports so far	12 August	G.-1Q	1908
30	Wairarapa District (interim)	1 September	G.-1R	1908
31	Coromandel County (interim)	8 September	G.-1S	1908
32	Timber lands, Taupo district	11 September	G.-1T	1908
33	Amending earlier report in Orakei Native Reserve	2 October	G.-1U	1908
34	Piako County	15 December	G.-1	1909
35	Manukau, Waikato, Thames, Ohinemuri, Kawhia, Waitomo, West Taupo, and Coromandel Counties	16 December	G.-1A	1909
36	Raglan County	17 December	G.-1B	1909
37	Hawkes Bay, Waipawa, Patangata, and Rangitikei Counties	19 December	G.-1C	1909
38	Masterton, Featherston, Wairarapa South, Pahiatua, Eketahuna, and Castlepoint Counties	19 December	G.-1D	1909
39	Cook County (further)	21 December	G.-1E	1909
40	Supplementary report on Maori land in various districts (miscellaneous blocks and matters)	21 December	G.-1F	1909
41	Final General Report and Summary	21 December	G.-1G	1909

The Commissioners had not been long at work before they presented their first batch of interim reports to the Government in March and April 1907. In April 1907 Stout was taken seriously ill with food poisoning, and it was during this time that the first interim reports of the Commission covering the Waimarama block and blocks in the areas of Mohaka and Nuhaka, and also Wanganui and the King Country, were tabled in Parliament.

In these early reports, the Commission set out to classify Maori land holdings by identifying land required for immediate Maori occupation, land required for future Maori use which could at present be leased, and surplus lands which could be sold. The first reports were quite disorganised and did not seem to follow a set pattern very clearly. Rather Stout and Ngata commented on every block of land they had looked into and seemed to bog themselves down in the detail of acreages, without focusing on specific recommendations - such as the request for agricultural instruction which would punctuate the later reports, or the call to ensure all Maori land was leased by public auction - which would have been beneficial to the region. General remarks were absent from the early reports, and there were few signs of the Commissioners' views coming through, as they would do in later reports. Instead the first four reports took on a more judicial nature as the Commissioners ruled what in their opinion should be done with the various blocks of land.

However, two difficulties impeded the progress of their work: the first of course was Stout's protracted illness during which he was unable to complete any work for the Commission, and the second was the commencement of another session of Parliament by July, which required Ngata to take his place as an MHR in the House. Notwithstanding that the progress of the Commission was hampered by these two factors, the Commissioners nevertheless reported on over half a million acres of land.

They ensured that full provision was made for the Maori owners (some 220,000 acres were recommended to be reserved for Maori occupation and farming), and established that over 300,000 acres were available for Pakeha settlement.⁴ Stout and Ngata also anticipated in these early reports that other large areas would be similarly available in the near future. These figures show an interesting proportion which must have encouraged the Government at the outset; in that the Commissioners initially recommended that more land was to be made available for Pakeha than was to be retained for Maori occupation. This was not to become a common feature of their recommendations.

The first report released by the Commission related to disputed Waimarama leases. Stout and Ngata had been appointed to more accurately define the area to be leased to Gertrude Meinertzhagen, however Stout had found himself in the middle of an issue which had escalated into a major dispute between strong personalities. Nevertheless, the Commission cut a path through all that, and managed to write up the issues which they answered briefly in their report. The Commissioners' stated aim in the report regarding some of the blocks in the Waimarama Estate, was that because negotiations had proceeded for a new lease, it was of importance for the intending lessee to know what their conclusions were. Aware of the jurisdiction debates which had raged during the Waimarama sittings in the Hawkes Bay, the Commissioners also warned that they had no power to do more than recommend what, in their opinion should be done with these blocks.⁵ Such a statement was in complete contrast to what Stout had stated during those sittings, when he had boldly claimed that the Commission's powers were unlimited. What had happened to Stout's unfailing confidence in the powers of the Commission?

Nonetheless, Stout and Ngata principally addressed one question in their report on Waimarama: Ought Gertrude Meinertzhagen to have a lease of the blocks in question or any portions of them? In the Commissioners' opinion, the intention of the legislature in passing Maori administration statutes was not to allow lessees of Maori lands to obtain large blocks to the exclusion of others. On these grounds, because the original Meinertzhagen lease was for 33,000 acres, the Commissioners could not recommend that the leases issued to Gertrude Meinertzhagen be given effect to. However, Stout and Ngata did think 'that it would be only just and fair', because she had invested so much time, money and emotion into Waimarama, that she should be allowed to obtain a lease of one 5,000 acre block.⁶ Stout and Ngata then went on to stipulate that the lease should be for twenty-one years, with Gertrude Meinertzhagen to pay the usual rates and taxes.

The Commissioners then confirmed this recommendation in a later concluding report on Waimarama. Meinertzhagen was to have 5,000 acres to lease, and included in the arrangement was to be the woolshed, sheep paddocks, and sheep dip. However, in order to avoid further dispute, Stout and Ngata also recommended that the Maori lessors be allowed access to, and the proper use of, the above capital and constructions. They were also of the opinion that the lessors should have access from

⁴ *NZPD* 1907, Vol. 142, p.1138.

⁵ 'Interim report of the Commission Appointed to Inquire into the Question of Native Lands (including the report on the Waimarama Estate), *AJHR* 1907, G.-1, p.1.

⁶ *Ibid.*, p.2.

their land to the sea.⁷ In concluding, Stout and Ngata referred to the heated legal battle that Waimarama had become. 'Waimarama', they stated, 'is not the only block in which it has been found that Maori owners spend their means in fighting for the possession of land...' If the questions surrounding the dispute were not adjusted or referred to arbitration, then the Commissioners predicted lengthy and expensive litigation in front of the Maori owners.⁸

The second report, dated 22 March 1907, dealt with blocks totalling 61,703 acres in the Wairoa County, and included the following blocks situated in the Tairāwhiti Māori Land District: Mohaka, Whareraurakau, Tutaekuri, Tutuotekaha, and Nuhaka. There had been protracted and costly litigation in relation to the ascertainment of titles and partitions amongst the owners of the Mohaka, Tutaekuri and Nuhaka blocks, which according to the Commissioners was evidence of the strong desire of the owners to have their individual interests allocated so as to make their occupation effective.⁹

However the holdings were so cut up and scattered as to make it impossible to apportion the interest of each owner. To do so would have resulted in the owners paying the value of the land several times over in survey and further litigation costs. An example given by the Commissioners shows that in the Mohaka blocks, there were roughly two hundred individual owners. The land being of uneven quality, partitions were made by the Land Court on the principle of giving each owner or hapu a portion of both first, second and third-class land. However, as the result of thirty-five years of litigation, the Mohaka block had been partitioned into fifty-five subdivisions, the cost of surveying estimated by the Commissioners to have absorbed the equivalent of six years' rent. A continuance of the process along the same lines, they believed, would result in expenses equivalent to the freehold of the land being purchased three or four times over. Thus, in some cases the land had become valueless, and the purpose of subdivision had been 'defeated' by the inclusion of members of the same hapu in numerous different subdivisions scattered all over the block. These comments by the Commissioners appear to be really a criticism of the whole Land Court system of subdivision and apportionment of interests.

Nevertheless, the Maori owners still appeared to the Commissioners to have an 'honest desire' to utilise their lands, and were thus willing to accept any reasonable scheme suggested by the Commission which ensured them fair working titles. Stout and Ngata found that the bulk of these lands in the Wairoa County were suitable for Maori farms, and believed that 'with a little care in the selection of tenants', and with assistance, the owners could occupy these large areas with profit to themselves and the State. The Commissioners' recommendations largely embodied the wishes of the Maori owners, so far as they approved of them; however Stout and Ngata did reserve the right to modify the owners' proposals if the surveyors presented a better option. The wishes of the Maori themselves were summarised by the Commissioners as follows:¹⁰

⁷ 'Report of Native Land Commission on Lease of Waimarama Block 3A, Hawkes Bay', *AJHR* 1908, G-ii, p.1.

⁸ *Ibid.*, pp.2-3. However, despite these recommendations, the dispute was carried on, and the recommendations were disregarded. Instead, Airini Donnelly took the case to the Supreme Court where the battle continued.

⁹ Interim Report of Commission on Maori Land in the Wairoa County, *AJHR* 1907, G.-1, pp.9-10.

¹⁰ *Ibid.*, p.10.

1. To lease to some of themselves, the majority of the lessees being heads of families or large owners, or connected by marriage to some of the owners;
2. In some cases where the interest of a small family was ascertained, the members of the family asked that they retain the land for their use and occupation as farms;
3. In a few cases the owners desired their interests to be leased to the highest bidder; and
4. Small areas were to be reserved as papakainga for residence and cultivations, or to enclose existing kainga.

The Commission's proposals in their second report with regard to the five blocks, were tabled as schedules, and are summarised as follows:¹¹

1. 2,445 acres were proposed to be reserved as papakainga
2. 11,930 acres to be set apart as farms for individual owners, families, or incorporated committees
3. 34,258 acres to be leased to Maori tenants
4. 10,147 acres was the area deemed as suitable for general settlement
5. 1,780 acres were already under lease to Pakeha, and
6. 1,152 acres were considered unsuitable for settlement

Compared to an earlier figure, where the Commissioners had recommended that a greater acreage of land be open to Pakeha settlement, than for Maori occupation, the second and third points above highlight a contrast; 44,000 acres were recommended to be retained for Maori, and only 10,000 acres was available for Pakeha settlement. Moreover, the Commissioners also felt that it was desirable to complete the orders made by the Native Land Court by proper surveys, with further subdivisions in some cases necessary in order to carry out the proposals for leasing or farming. They therefore recommended that a staff of surveyors be employed for the work as soon as possible, which would include the laying-off of roads and the valuation of the various subdivisions.

In conclusion, the Commissioners hoped that the Native Land Court would swiftly verify their partitions, and stated that under these proposals, over 200 Maori would be put onto their own land with good titles to farm fair-sized holdings. Stout and Ngata added that if the District Maori Land Board was permitted to grant leases to Maori tenants specified by the owners, or to issue certificates of partnership or incorporation to individual owners and families, then there would be no necessity for further legislation or litigation.¹²

On 26 April 1907, Stout and Ngata produced their second interim report, which examined Maori lands in the Whanganui District. The purpose of this report was to present a 'bird's-eye view' of the larger areas in the district which were more or less unoccupied, and then to analyse them according to the manner in which they were held by the Maori owners, the present position of the titles and of dealings therewith, and the manner in which the Commissioners thought they should be rendered available for the settlement of both Maori and Pakeha.¹³

¹¹ Ibid., p.13.

¹² Ibid., p.13.

¹³ 'Interim Report in Native Lands in the Whanganui District', *AJHR* 1907, G.-1A, p.1.

The Commission dealt principally with four large areas of land within the Aotea Maori Land Board district, which primarily lay north, south, east, and west of the Whanganui River. This was an extensive report, and covered forty-eight blocks totalling some 433,074 acres. Stout and Ngata used this report to deal at length with the Aotea District Maori Land Board and to assess its position in relation to the lands in the Whanganui District, and its administration and general work in the Aotea Maori Land district. They quickly discovered that the Maori owners were strongly against this system of administering their lands. Generally speaking the owners alleged that there were great delays in having to vest their land in the Board, the system was expensive due to the costs of surveying, roading, and the Board's administration fees, and they suffered a loss of freedom in dealing with their own lands. Although some owners were not altogether opposed to the Board's acting as agent only to lease their lands, most preferred if possible to do the leasing themselves.¹⁴

The Commissioners were not easily convinced however, and preferred to believe that the united management of the Land Boards, as opposed to the differing opinions of the many individual and family owners, was in fact the most effective method of administering Maori lands. In siding with the status quo, the Commissioners supported the Board's current programme, were positive about the rentals being obtained by the Board, and thus recommended that all of the Maori lands vested in the Aotea Board (115,955 acres) be rendered available for Pakeha settlement. The Commissioners fully expected that such lands would in twelve months be in profitable occupation. However, the Board was shown to be hamstrung by legal restrictions that in effect further disadvantaged Maori landowners. By law, the Boards were only able to lease the land, and were not able to farm the lands profitably for the owners. The Commissioners both agreed that a more suitable system would allow the Board, instead of having to cut the land up into small areas for individual farms, to employ a competent manager to farm larger areas as a communal property - the owners having preference in all work on the place.¹⁵

As to the remaining balance of lands (238,582 acres), which excluded those vested in the Board and 137,673 acres which had already been leased, the Maori owners wanted it to be reserved for their use and occupation. They were also emphatic that both Pakeha and Crown purchases should cease. Some of the owners wanted the area to be cut up into family farms, while others simply requested that the land remain inalienable. All resented their lack of financial resources to develop the land, and there was a distinct demand for an opportunity to be given to some of the owners to farm. The report in fact highlighted the helplessness of the Maori owners who were ready to work their land as farms, but desperately needed training and finance.

Stout and Ngata did state however that they were disappointed to find that among some of the Whanganui Maori they 'lacked the same ambition' to become farmers which had seemed to 'fire' the Maori on portions of the East Coast which the Commission had been able to visit. They noted that among some of the leading people in Whanganui, 'there was a disposition to decry any attempt to make the Maori a decent farmer'. The Commissioners also found reasons to discount these people's

¹⁴ Ibid., pp.11-12.

¹⁵ Ibid., p.13.

opinions somewhat, because many of them were busy promoting leases to Pakeha of land which was not only already occupied by Maori but also 'within a stone's throw' of kainga. Such Maori were impatient of schemes (such as the Commission) likely to jeopardise their negotiations.¹⁶

Nonetheless, the Commission maintained that although the Whanganui Maori were still 'undeveloped and unorganised', some of them did possess the basic characteristics to make successful farmers, if only they could be 'taken in hand' under expert guidance and agricultural instruction. Stout and Ngata wanted to see land in the Whanganui district settled, and put aside for both communal and individual Maori farms. They believed the Whanganuis to be 'handy' people, both 'adaptable and intelligent above the ordinary'; if systematic instruction and assistance were given to them instead of half-hearted advice, they would distinguish themselves as farmers.¹⁷ Thus, the Commission recommended that of the balance of lands (238,582 acres excluding those vested in the Aotea Maori Land Board, and those already leased) 49,964 acres were to be set apart for Maori occupation and farming, including 2,470 acres to be reserved as papakainga. The area to be made available for leasing to the general public was 92,443 acres, whilst 5,646 acres were papatipu lands to which the titles had not been ascertained, and 84,839 acres remained still to be examined by the Commission.

However, no lands were recommended for sale. This was the result of a brief review by the Commission of the Crown purchases in the Whanganui district, in which they discovered that the Crown had been purchasing largely in this district since the early 1880s. In particular, from 1881 until 1907, the total area purchased was nearly 1,273,000 acres. According to the Commission's report, Maori knew in later years that they were parting with their lands at 'absurdly' low prices, but the restriction against private dealings left them no alternatives; they had to sell to the Crown at the latter's price in order to meet the cost of, among other things, Court fees, agents' costs, and survey charges. Following that, 'the taste for good Government cash or cheques once cultivated easily became a passion. The purchase money had gone on litigation and riotous living.'¹⁸ This statement is somewhat extreme, but exemplifies the puritanical and moralistic attitude which characterised Stout's role in both the sittings, and the reports.

Nevertheless, Stout and Ngata were concerned that only some 500,000 acres remained to the Maori of the Whanganui district, including blocks which were not covered by their report. Their general inquiry into the titles and ownership of the lands remaining to the 'Whanganuis' led them to believe that although a minority of owners could afford to sell a proportion of their interests, they considered it unwise to assume that the majority of people would have surplus lands for sale. Consequently, the report on Maori land in the Whanganui District concluded that Stout and Ngata 'did not think it advisable that the current system of purchasing land should be continued in this district.'¹⁹ This conclusion would become the basis for one of the Commissioners' major recommendations featured in their first 'General Report', and would be much repeated and referred to by Stout and Ngata.

¹⁶ Ibid., p.16.

¹⁷ Ibid.

¹⁸ Ibid., pp.15-16.

¹⁹ Ibid., p.16.

The last report of the initial group released in March and April 1907 related to Maori lands in the Rohe Potae/King Country district. More than any other district where Maori owned large areas of land, this region attracted the attention of the public. The construction of the Main Trunk Railway, and the extensive purchases of Maori lands which followed saw the rapid settlement in the area of Pakeha settlers, and thus necessitated direct contact with Maori and Maori-owned lands. As Pakeha sought to build townships, elect local bodies and levy taxes and rates, the anomalies and defects of the Maori land laws were greatly highlighted. Delays ensued as large numbers continued to settle the region 'in battalions', and very quickly Pakeha dissatisfaction turned to anger towards and criticism of Maori, whom Pakeha accused of holding back the inevitable progress of settlement.

Addressing this issue in the introduction to their report, Stout and Ngata commented on prevailing Pakeha attitudes, and noted that 'so high did feeling run that criticism overstepped the limits of fairness, and fastened upon the Maori owner the responsibility of blocking settlement.' Such an opinion was counter to a lot of the media statements of the time which assumed that Maori lands were left undeveloped because Maori were 'too lazy or too improvident to bother to do the necessary work.'²⁰ The Commissioners believed that such abuse was without sufficient justification, and felt it was their duty before continuing with the investigation of the King Country, to discharge the Maori owners from 'most, if not all, of the responsibility for the tardy settlement of these lands.'²¹ Rather, Stout and Ngata maintained that it was the practical difficulties occasioned by recent legislation, and the unascertained nature of the land titles which had contributed to the delay in the profitable occupation of the King Country lands.

As described in Chapter Five, the iwi of the Rohe Potae had been divided into factions at the time of the Commission's investigations, chiefly in consequence of the Waikato and Taranaki wars, and their aftermath. Consequently, their differences had affected the proposals made for the settlement of their lands. One faction desired to be left alone to do with their lands as they pleased, whilst a larger party under the leadership of the King Mahuta and the Kingitanga, were opposed to any system of administration that restricted their freedom of disposition. The third group consisting mostly of Ngati Maniapoto were more moderate, and appeared to the Commissioners

²⁰ Angela Ballara, *Proud to be White?: A Survey of Pakeha Prejudice in New Zealand*, Auckland, 1986, p.77. According to Ballara, even after the Liberal Government had purchased a further three million acres of Maori land, settlers continued to complain of the many thousands of acres of good land 'kept in idleness' by 'the Maori', who, they considered, did more damage to the economy than European absentee landlords. At least, said the critics, these absentee landlords paid taxes on their lands, whereas Maori land often lay undeveloped and unproductive exempt from taxation and rating, their value increasing through no effort on the part of their owners. 'Much of the best land lies locked up in native hands; lands fit for fruit growing and dairy industry...lie waste and empty...'; this was a typical comment voiced in 1905. As a result of the drive to 'get hold' of as much Maori land as possible, Maori were also condemned for the so-called *taihoa* policy, by which some tribes refused to bring their customary papatipu land under the jurisdiction of the Native Land Court. With this campaign for the 'opening up' of 'locked' Maori lands went the racist attitudes that served to obscure the facts. Pakeha tended to assume that Maori lands were left undeveloped because Maori were too lazy to bother to do the necessary work. Few recognised the Maori were blocked in many cases from developing their lands because of the chaos in title created by individualising land legislation, together with the denial of the kind of assistance available to Pakeha settlers. Many Pakeha also greatly exaggerated the areas of land still owned by Maori, and threatened that such 'idleness' was hampering Pakeha progress, and 'retarding' settlement! (Ballara, pp.76-78.)

²¹ 'Interim Report on Native Lands in the Rohe Potae (King Country) District', *AJHR* 1907, G.-1B, p.1.

to recognise the necessity of a comprehensive system of administration which would open areas of land for general settlement, while still reserving adequate land for Maori to use as farms.

It was the views of this group which were embodied in a memorandum presented to the Commission by John Ormsby, and contained suggestions as to how the Ngati Maniapoto envisioned both 'protecting and effectively settling their lands in the future.'²² In response to the proposals in the memorandum; which included the setting up of a new and more localised administration board, the discontinuance of Crown purchases, and the need for agricultural instructors to be appointed to give advice in practical farming, the Commission's attitude was positive and supportive of some of the ideas. Stout and Ngata found that although Maori throughout the Rohe Potae were divided as to the best method of opening their lands to settlement (a hostile section of Ngati Maniapoto) had voiced their objections to the memorandum), they were still 'anxious and eager' to have those lands made productive as soon as possible.

The Commissioners did note that the questions raised regarding the role of the Land Boards and the cessation of Crown purchases were of a more general nature and they reserved full discussion for their first General Report. Instead they chose in this Rohe Potae report to discuss the issue of Maori occupation and farming, which had also been raised in the memorandum. Among the proposals, Ngati Maniapoto had asked that land in suitable areas be set apart for farming by the owners, that practical instruction in farming be given, and that financial assistance be afforded by the State under direction of the Maori Land Board. The Commissioners established that little had been done by the Ngati Maniapoto owners to start farming on an 'efficient scale', because they had not had the 'advantage' of observing the processes of farming, or the clearing of bushlands, or the erecting of stock-proof fences. Stout and Ngata thus recommended that with agricultural instruction and with financial means provided to purchase decent stock, small farming communities could be successfully fostered.²³

'We do not think that it is too late to foster systematic farming among the Ngati Maniapoto, and in that belief we recommend the setting-apart of any lands they have demanded over and above what we deem necessary for papakainga...'²⁴

In dealing with the King Country lands in general, Stout and Ngata consulted the owners and ascertained at first hand not only what areas they required for papakainga and for their use and occupation as farms, but what they themselves desired should be done with the area they offered for general settlement. The general opinion was hostile to selling, and strongly in favour of leasing through the agency of the Maori Land Board. In respect of Maori wishes, the final summation of the Commission's interim recommendations in the King Country can be classified as follows: 163,769 acres were recommended for general settlement by way of lease; only

²² This memorandum, and the proposals from John Ormsby and his Ngati Maniapoto supporters has been fully discussed in Chapter Five, in the context of the role played by Maori during the Commission's sittings, and the concerns they raised. For referral to the details of the memo, see Chapter Five, pp.177-180.

²³ AJHR 1907, G.-1B, p.8.

²⁴ Ibid., p.9.

one-fifth of that amount, some 34,522 acres were to be sold; and 94,148 acres were to be reserved for Maori use and farming.²⁵

The Commission's inquiry excluded lands which had already been sold, leased, or taken for public works and townships. Nor did it extend to the whole area of unoccupied Maori lands, owing to the absence of many of the owners from sittings, and the fact that the Commission was unable to visit Kawhia where there was a great deal of land lying 'idle'. Stout and Ngata noted at the end of their report that a large area in the King Country still remained to be reported on, and they regretted that time at their disposal had not permitted a visit to Kawhia and other parts of the Rohe Potae.²⁶

It was thus considered necessary to re-visit the Rohe Potae district, write a new report (AJHR 1908, G.-1O), and revise the earlier recommendations printed in AJHR 1907, G.-1B. Since the initial report an area of 40,000 acres had been leased to Pakeha, and it was also found that the Crown had acquired interests in various blocks. Some areas that the Commission had recommended be set aside for Maori occupation only, had been purchased by the Crown, some areas recommended for leasing had been purchased by the Crown, and some areas recommended for sale had been purchased by Crown. The Commissioners refrained from explicit criticism of the Crown's actions, but their tone was disapproving. They did not add any further general remarks to the second report, but rather updated their figures as to how much was to be left for Maori occupation, sale and lease. Having scheduled that the lands for sale were 34,522 acres, the second report reduced this amount to 9,086 acres. In contrast, the first report recommended that 94,148 acres remain in Maori occupation, and this was increased in the second report to 114,344 acres. Finally the lands available for lease were recommended at 163,769 acres, and were increased marginally to 165,595 acres.²⁷

In summary, the prevailing recommendation from the first four reports of the Commission, reflected the Commissioners' desire to see the local Maori Land Boards empowered to give effect to their recommendations. Stout and Ngata particularly suggested that the Boards administer: (a) the leasing of lands by public auction, and also the granting of leases to Maori tenants as specified by other owners; (b) the setting aside of burial-places, kainga and papakainga on lands set apart for Maori settlement and occupation; (c) the raising of money from the security of land reserved for Maori settlement, for the purpose of advancing funds to those Maori who chose to farm their lands; and (d) in rare cases, the sale of land by auction either to the Crown or to the highest bidder.

Stout and Ngata saw the Boards as centralised bodies which could manage Maori land titles, secure leases and/or sales, whilst still protecting the interests of the Maori owners. The importance that the Commissioners placed on the roles of these Boards and their administration of Maori lands, continued to be highlighted throughout their later reports as well. In particular, the reasoning behind Stout and Ngata's support of

²⁵ Ibid., p.12.

²⁶ Ibid.

²⁷ See Commission Reports on the Rohe Potae/King Country, AJHR 1907, G.-1B, p.12., and AJHR 1908, G.-1O, p.2.

the Boards was discussed to some extent in their first 'General Report' presented in July 1907. (See discussion of first 'General Report' below.) The Commissioners also pointed out in both the Whanganui and King Country reports the necessity for expedition in the surveying of Maori lands, and the vast amount of work which needed to be completed before titles could be ascertained and put on the Native Land Court register.

The following table is a summary of the area investigated, and reported on, by the Commission in the first quarter of 1907:- (Source: AJHR 1907, G.-1C, p.19.)

Name of District	For Maori Occupation and Farming	Available for Leasing	Available for Sale
1. Hawkes Bay -	Acres	Acres	Acres
(a.) Waimarama	26,380	4,680	2,300
(b.) Mohaka and other blocks	48,623	10,147	...
2. Whanganui	49,964	92,443	...
3. Rohe Potae or King Country	92,148	163,769	34,522
TOTAL	219,115	271,039	36,822

There were also 90,485 acres in the Whanganui District still to be dealt with by the Commission, and 559,290 acres in the Rohe Potae.

At the presentation of these early reports, the Commissioners had earmarked approximately 306,000 acres of Maori land as being available for 'general settlement', of which 36,000 acres was designated for sale and 280,000 for leasing - 81% of the total. On average in those early reports, the Commission had recommended that two-thirds of the land investigated be leased, with one-third sold. The Commission had stressed that in the vast majority of cases, the mode of disposition indicated in their reports represented the wishes of the Maori owners themselves. In general, Maori opinion favoured the opening up of their land for settlement under leasing conditions, and not under sale.

Premier Joseph Ward spoke in glowing terms of the Commission's reports, and praised the benefits they would bring to both Pakeha and Maori. Likewise, The Evening Post was impressed with the early work of the Commission, and described the recommendations contained in the interim reports, as clear, comprehensive, informing, and statesmanlike. Acknowledging a sense of relief, the editor applauded the 'amazing speed' with which the Commission had proceeded, and so far from wasting time or giving the politicians a respite, had presented them, within a month of the opening of Parliament, with material which would facilitate prompt action. These early reports seemingly prepared the way for the opening up of millions of acres of Maori land.²⁸

²⁸ The Evening Post, 29 July 1907.

However, there was some criticism of these reports, and much of it came from within Parliament, voiced throughout parliamentary debates. John Ormond, the Legislative Councillor from the Hawkes Bay, believed the reports showed that neither Stout nor Ngata possessed the knowledge and experience required to deal 'successfully' with this very large and difficult subject, and he claimed that Stout was uninitiated and unfamiliar with the question of the classification and the value of land. Ormond argued that 'there ought to have been joined with them [Stout and Ngata] some man of very large experience in land and the uses to which land can be put. Such a man would have guided and assisted them in coming to the conclusions necessary in this very large question with which they have to deal.'²⁹

Ormond also criticised the methods followed by the Commission, and claimed that when the Commissioners reported on the Waimarama Block in the Hawkes Bay, the Chief Justice only viewed the land by travelling along the road to Napier. As far as he knew, Ormond said, the Commission never thoroughly examined the Waimarama block, and he stated that 'even if I had spent some days in going over that block of 35,000 acres, I would consider myself scarcely able to give any proper apportionment of these various interests, and so would anybody else'. He suggested that the Commissioners were therefore not in a position to fully report upon the interests concerned.³⁰

Furthermore, some Members also used the discussion of the early reports as an excuse to open up the issue, using the debate to criticise Liberal Maori land policy in general, and to criticise the slow progress of the Commission. Massey, the Leader of the Opposition, professed himself particularly piqued at the slowness of the Commission, commenting to the House that: 'They [the Commissioners] have taken a much longer time already than I thought they would...to go through the country and report on the whole of the Native Lands. I do not think there was any necessity to take up a quarter of the time they have taken up. As a matter of fact, what they are doing is simply office-work...'³¹ Was the Commission really necessary? A.L.D Fraser, member for Napier, also commented on the need for the Commission, and having read the first interim reports believed that from two Commissioners of 'such class we will never receive anything that will be a guide to us as administrators in bringing down anything beneficial to the two races.'³²

THE NATIVE LAND SETTLEMENT ACT 1907

In order that there should be no delay in carrying out the settlement of the unused lands, the Commission asked that their recommendations be submitted to Parliament for action. Stout himself said that '...it would be impossible to carry out the aim of the Commission and what is intended unless legislative power and sanction is given to

²⁹ NZPD 1907, Vol. 142, p. 1146. See all of Ormond's speech, pp.1146-1148. In reply to this criticism of Stout, the Attorney-General Findlay responded quickly that having been counsel before Stout in connection with his work upon the Compensation Courts, Stout had had to deal frequently with the value of large estates and city lands. '...I ask,' said Findlay, 'who can deny that there is not a single judge on the Bench better qualified to deal with then character and value of land than the Chief Justice [Stout].' (NZPD 1907, Vol 142, p.1152)

³⁰ NZPD 1907, Vol. 142, pp.1146-1147. Upon saying this, Ormond was accused of relying upon hearsay, and in fact as mentioned earlier on in the text, Stout and Ngata did actually spend a day at Waimarama in order to ascertain the correct location for a reserve.

³¹ *Ibid.*, p.1072.

³² Read this speech, NZPD 1907, Vol. 142, pp.1062-1064.

what is reported and advised by the Commission...'³³ He hoped that if Parliament sanctioned the recommendations of the Commission, considerable Maori and Pakeha settlement would follow.

Premier Ward was also anxious to pass legislation that would 'speedily and satisfactorily' settle the many difficulties that had arisen in Maori land administration.³⁴ Parliament was thus encouraged to see the need for legislation to enact some of the Commission's reports and to provide a legal avenue for following them, in order to apply some of these early recommendations. As Ward told his colleagues in the House:

'With the object of ensuring that all sections of the community may have an opportunity of competing for all Maori lands offered...Parliament will be asked to pass legislation and put into effect this purpose, and to provide that all [Maori] lands proposed to be alienated, either under leasehold or freehold tenure, shall be disposed of...by public competition.'³⁵

Subsequently, the Parliamentary session of 1907, which had begun a few weeks before the Commission's first general report was penned, produced legislation. The *Native Land Settlement Act 1907* was enacted to govern the work of the Commission in some respects, and to provide a means of giving effect to all of the recommendations made by the Native Land Commission. When the Bill was being passed, the Commission had only completed reports on portions of the country, but this Act stated that any future recommendations from the Commission that land was not required for Maori occupation would also come under the provisions of the Act. The Act's second purpose was to make further provision for the settlement of Maori lands, by determining what Maori land might be retained for Maori use and occupation, and what parts ought to be given over to settlers to either buy or lease. This was a monumental provision, because with the stroke of a pen Maori control of their lands was removed. Their rights as owners were ignored, as the new legislation empowered the Crown to arbitrarily decide who could settle on what lands and where.

The *Native Land Settlement Act 1907* allowed for the Commission's reports to be implemented by Order in Council. Two categories of Maori land had been identified in the Commission's recommendations: the first, any Maori land that was not required for occupation by the Maori owners, and was available for sale or leasing; the second, Maori land which should be reserved for the use and occupation of Maori.³⁶

Section 4, Part I of the Act stated that as often as the Commission reported to the Governor that any Maori land was not required for occupation by the Maori owners, and was available for sale or leasing, the Governor by Order in Council was to declare

³³ The *PRESS*, 1 February 1907.

³⁴ *NZPD 1907*, Vol. 139, p.424.

³⁵ *Ibid.*

³⁶ Lands to which this Act did not apply were discussed in Chapter Three, pp.73-74. However to re-iterate: This Act did not apply to - (a.) Land situated in the South Island or in Stewart Island; (b.) Land vested in a Maori Land Boards under any other Act; (c.) Land which is subject to or administered under any of the following Acts: The *Thermal-Springs District Act 1881*; the *West Coast Settlement Reserves Act 1892*; the *Native Townships Act 1895*; the *Urewera District Native Reserve Act 1896*; the *Kapiti Island Public Reserve Act 1897*; and the *East Coast Native Trust Lands Act 1902*. (Section 3, Part I, *Native Land Settlement Act 1907*, No. 62., *The Statutes of New Zealand 1907*, pp.271-272.)

such land as subject to Part I of the Act. The validity of such an order was not to be questioned in any Court. Any such Order in Council was also to determine the boundaries of the lands therein referred to in accordance with the reports of the Commission. The local Maori Land Board was also to assist in determining the boundaries. Finally, Section 4 gave the Commissioners some latitude to alter any of their reports which had been written before the passing of the Act, having regard to the provisions of the Act.³⁷

Sections 5 and 6 of Part I of the Act were crucial, and empowered the Governor to vest in the Maori Land Boards any area of Maori land which the Commission reported was not required for Maori occupation and was available for sale or leasing.³⁸

Furthermore, the land so vested in a Board was to be held in trust for the Maori owners. In other words by such provisions, Maori lost all control of their land, which was to be handed to the Land Boards for administration, who had assumed huge and arbitrary powers. This was a phenomenal jump in Government policy, and the Waitangi Tribunal in one of its early reports, has recently drawn attention to the incompatibility of the Act with the promises in the Treaty of Waitangi:

‘It is extraordinary, as we reflect now on the Treaty of Waitangi, that subject to the reports of the Commission, the Governor could, by Order in Council, vest Maori land in a District Maori Land Board for sale to settlers, with or without the consent of the Maori owners, simply on the grounds that the land was considered excess to their requirements.’³⁹

The powers given to the Boards were later defined in the Act, and were very wide. Section 11, Part I of the 1907 Act, was a particularly infamous provision in the Act, and directly contradicted the wishes of Maori and ignored their rights as owners of the land. It provided that as soon as lands had become subject to Part I, the Board in which the land had been vested was, with the approval of the Native Minister, to divide such land into two approximately equal portions to be set apart, the one for sale and the other for leasing.⁴⁰ The land thus vested was to be split equally with half to be leased and half for sale, with the Board evidently given total powers here.

After certain preparations had been made, the land for sale was to be disposed of at public auction, subject to a price fixed by the Native minister. Conditions similar to the those for Crown lands under the *Land Act 1892* were imposed, which required occupation and improvement of the land purchased (Sections 16-26). The lands set apart for leasing were also to be disposed of at public auction, subject to a rental fixed by the Native Minister, for a maximum term (renewals included) of fifty years. Provision was made for compensating lessees for their permanent improvements at the end of the lease, and for the reversioning of the land in the owners at that time.⁴¹

³⁷ Section 4, Part I, *Native Land Settlement Act 1907*, No. 62., *New Zealand Statutes*, pp.272.

³⁸ Section 5, Part I, *Native Land Settlement Act 1907*, *New Zealand Statutes*, pp.272-273.

³⁹ New Zealand, Waitangi Tribunal, *Orakei Report: Report of the Waitangi Tribunal on the Orakei Claim*, (Wai-9), Wellington, November 1987, p.51.

⁴⁰ Section 11, Part I, *Native Land Settlement Act 1907*, *New Zealand Statutes* 1907, pp.273-274.

⁴¹ Sections 29 (1) and 32. Donald M. Loveridge, *Maori Land Councils and Maori Land Boards: An Historical Overview, 1900-1952*, Prepared for the Waitangi Tribunal, Wellington, September 1996, pp.71-72.

Sections 41 and 42 took the management of the people's own money out of their hands, and empowered the Boards to invest the proceeds from sale or lease monies, rather than giving it directly to the owners to do with it as they pleased. Finally at the expiration of a lease, the Board was to direct the payments of such monies back to the beneficial owners. Section 50 allowed for the Boards to set apart a reserve at any time in the interests of the Maori owners. Complete control was therefore taken from Maori both financially, and as to the administration of their lands.⁴²

According to Loveridge, the vesting of Maori land in the Boards without the permission of the owners was not a complete novelty by 1907; but empowering the Land Boards to sell vested lands was a new departure.⁴³ Until this time, the only form of alienation permitted for lands vested in the Boards, had been leasing. R.J Martin has described this provision as a 'serious invasion of the relatively non-discriminative legislation which had been introduced by the Liberal Government.'⁴⁴ It removed from Maori all control to their lands. Martin also noted that Section 11 made one very significant departure from the Commission's early recommendations regarding the disposition of the lands they had investigated; it overrode their recommendations as to the amount of freehold land which was to be made available. It became apparent that following the first reports released by the Commission, the Government's interest in protecting Maori rights had waned.

Although in most instances, the Legislature recognised the fairness and authority of the Commission's recommendations, it could no longer avoid the pressure from the Opposition and Pakeha settlers for Maori freehold land. The provisions in Part I of the *Native Land Settlement Act* were a sign of the Government's increasing interest in the welfare of Pakeha farmers - a compromise in view of the forthcoming elections. The Liberal Party, while relying on organised labour and the urban classes for the greater part of its support, needed also to convince the farmers that it stood for their interests. It was feared that the Government would lose the rural vote unless a substantial portion of the 'waste' Maori lands was made available for freehold tenure by Pakeha farmers. However, the Liberals had also pledged to protect the welfare of Maori and their land. As these were not compatible, the concerns of Maori owners were being sacrificed in order to arrest the declining Pakeha support for the Liberal Government, and to promote the settlement of Pakeha on Maori land. The half leasehold, half freehold provision of the 1907 Act was offered to Pakeha by the Liberal government, as a 'sacrificial burnt offering.'⁴⁵

Maori did however, obtain some concessions in the *Native Land Settlement Act 1907* which were more favourable to the people. The Government consented to including adequate provision for the settlement of Maori on their own lands, and Part II of the Act - inserted by Apirana Ngata - was the first comprehensive measure to provide for this. For the first time the legislature concerned itself with the question of land use in

⁴² Sections 41, 42, and 50, Part I, *Native Land Settlement Act 1907*, *New Zealand Statutes* 1907, pp.280-282.

⁴³ Loveridge, *Maori Land Councils and Maori Land Boards*, p.72.

⁴⁴ R.J. Martin, 'Aspects of Maori Affairs in the Liberal Period', MA Thesis, Victoria University of Wellington, 1956, pp.128-129.

⁴⁵ B.R. Gilmore, 'Maori Land Policy and Administration during the Liberal Period 1900-1912', MA Thesis, University of Auckland, 1969, pp.63-65. See Part I, *Native Land Settlement Act 1907*, No. 62., *New Zealand Statutes*, pp.272-282.

areas reserved solely for Maori occupation. This was a precedent Ngata felt compelled to support, in spite of the presence of Section 11 in Part I of the Act.⁴⁶

In Part II of the Act, provision was made whereby reserves as recommended by the Commission, could be set apart for Maori occupation by those owners who had no other land, or who were in a position to 'profitably utilise' the property. Under Order in Council, the Governor could declare land to be retained for Maori occupation and subject to the restrictions on alienation in Part II of the Act. This meant that no person could acquire any interest therein without the Consent of the Governor in Council. It also allowed for the Native Minister, if he considered it desirable, to apply for the land to be incorporated under a committee of the owners who would manage and farm the block.⁴⁷

Where the Commission recommended in future that all or part of the land should be leased to Maori, local Maori Land Boards were authorised to act as the agent of the Maori owners and arrange for such lands to be leased to Maori. Sale of such land was prohibited, and all leases and sub-leases were to be held by Maori. Leases were to be limited to 50 years without renewal, a measure designed to retain for Maori some means of subsistence in the future whereby the lands would be returned to Maori owners at a time when the Maori would be ready to 'cope' with them. This provision had come from Ngata who envisaged that the next generation of Maori owners would be able to administer their own lands profitably. Part II also empowered the Government to subsidise survey and administration charges but these charges were to remain the first claim on the proceeds of the land and payments to the owners would come last.⁴⁸

Thus, under Part II, Maori owners retained the title to their lands. Their ability to transfer any interest in them was restricted, with the Land Boards being given jurisdiction over all leasing. 'In effect, a specified portion of the lands remaining in Maori ownership was to be "taken off the market" as far as Pakeha were concerned.'⁴⁹

However most importantly for Ngata, Part II also stipulated that the Maori Land Boards could arrange for money to be borrowed against the reserved land for the purpose of Maori land development and incorporation. Such a measure providing Maori with financial assistance in their farming endeavours was clearly necessary, for not even Maori reserved land could be effectively occupied without financial assistance being made available. Carroll seems to have approved this suggestion of Ngata's, and Part II of the Act went a little way towards addressing the Maori desire for government funding to aid their farming endeavours.

Section 60 provided that Maori lessees might, with the consent of their Maori Land Board, borrow money from a State Lending Department for the purpose of farming, stocking, and improving their land.⁵⁰ If the lessee was a part-owner of the leased land

⁴⁶ Anne-Marie O'Brien, 'The Stout-Ngata Native Land Commission, 1907-1909: Aspects of Maori Land Policy in the Liberal Era', BA(Hons) Essay, Dunedin, 1991, p.42.

⁴⁷ See Sections 54 and 61, Part II, *Native Land Settlement Act 1907*, *Statutes of New Zealand 1907*, pp.282-285.

⁴⁸ Sections 55-57, Part II, *Native Land Settlement Act 1907*, *Statutes of New Zealand Statutes*, pp.283-284.

⁴⁹ Loveridge, *Maori Land Councils and Maori Land Boards*, p.71.

⁵⁰ Selwyn Katene suggests in his thesis that in fact this provision in the legislation soon proved to be of little value. The State Advances Department and other lending institutions had no confidence in the business ability of

the mortgage might be secured on the lessee's interest in the land; and a part-owner or a person having no share in the lease land, might secure their mortgage on monies they could receive from the sale or lease of land.⁵¹ As with previous Government loans, Maori had generally proven ineligible for money, because they had nothing against which to secure their loan, and were considered too much of a credit risk. Section 60 thus allowed Maori to obtain money by guaranteeing it against their lands, and removed a major obstacle which had previously prevented Maori from taking out loans.

Finally, the Act also extended the term of the Commission for twelve months to 1 January 1909.⁵² It appears that this was done in the hopes that, if the Commission looked at still more Maori land, its recommendations would eventually match the '50% sale/50% lease balance' required by Parliament, and increase the proportion of freehold and leasehold land to be set aside for Pakeha settlement.⁵³

The 1907 Act also provided for the future funding of the Stout-Ngata Commission. Section 62 guaranteed that the cost of administration of the Act and the Commission should 'be defrayed out of moneys to be from time to time appropriated by Parliament for the purpose.'⁵⁴ It was anticipated by Government that it would earn revenue to fund Native Department activities such as the Commission, by collecting interest off the state loans it had offered to Maori in Section 60 of the same Act. Furthermore, the Government expected to make money from survey liens, which would be charged upon Maori owners who had to divide up their land into smaller blocks for lease and for sale.⁵⁵ Thus, from the interests off Maori loans, the Government intended to pay for the Commission. Effectively this meant that Maori were having to pay for the very Commission which was enquiring into their lands. This represents an irony in that Maori literally had no money and Government had a fair bit, and yet Maori were being forced to pay for a Commission which the Government had appointed, and they were being forced to pay for a body which had the power to divest them of much of their lands!

The Act however, was by no means an attempt to find a 'final solution' to the Maori land issue. The need for a consolidation of Maori land laws was recognised but this was in fact delayed until 1909. As Carroll stated during a debate on the Native Land Settlement Bill:

Maori landowners, and the reputation Maori had for improvidence was a further handicap for potential borrowers - thus very few were willing to lease Maori the money which the 1907 Act had provided for. (Selwyn Katene, 'The Administration of Maori Land in the Aotea District, 1900-1927', MA Thesis, Victoria University of Wellington, 1990, p.182.)

⁵¹ Section 60, Part II, Native Land Settlement Act 1907, No. 62., New Zealand Statutes 1907, p.284. However, these concessions were not well received by Maori in light of other sections in the Act.

⁵² Section 52, *Native Land Settlement Act 1907*, *Statutes of New Zealand 1907*, p.282.

⁵³ *NZPD 1907*, Vol. 142, p.1125.

⁵⁴ Section 62, Part III, *Native Land Settlement Act 1907*, *Statutes of New Zealand 1907*, p.285.

⁵⁵ Nevertheless, some Opposition MPs believed that the Commission was being funded solely by taxpayers' money, and took exception to the cost of the Commission. By extending the term of the Commission, these people felt that the government was wasting the country's money. According to the Opposition Leader Massey, it seemed that if the Government were to get some 'practical' men, altogether apart from Parliament - men experienced in the surveying, purchasing and opening up of land - they would go along and do the work the Commission was doing and at less cost than what the Commission was costing, and in less time. (*NZPD 1907*, Vol 142, p.1046.)

'it was well known that the Commission was appointed for a certain purpose - to deal with unoccupied lands, and report, and make recommendations in respect thereto. [Some of] these recommendations have been published...Though this Bill may be considered only an instalment of what must come...it is well to have a principle with some definiteness adopted, so that the Commission...may go on with its operations with a clear mind...Next year it will be absolutely necessary to undertake...a complete, thorough, and proper consolidation of all Native land Acts. We are only providing here, and the time allotted to us will only permit us to deal with lands which are for the purpose of being submitted for public competition in the interests of general settlement.'⁵⁶

Carroll was however, determined to pass some sort of legislation which would deal with the immediate recommendations from the Commission. In general, the Native Land Settlement Bill was seen by Government as the interpretative legal base for the Commission. In addition, by the passing of the 1907 Act, Ward believed that both Maori and Pakeha would soon see the important work that the Commission was carrying out put into practical operation. The Crown believed that through the Section 11 proviso the Act allowed for the facilitation of the availability of Maori land for public settlement, yet it also adhered to the Commission's desire that government should take into consideration the rights and requirements of the Maori owners. Furthermore, Carroll also promised that major legislation regarding the consolidation of all Maori land laws would follow in the next year.

There was great interest in Parliament over the Bill, and its provisions were hotly debated in the House. The main attack came from the Opposition, and supporters of free trade in Maori land. Such speeches did not really show support for the fact that Part I of the Bill removed all control Maori had over their lands. Rather it was a case of self-interest on behalf of many of the speakers who inevitably supported the freehold cause, and were only protesting against the Act because it provided for as much land to be leased as did to be sold. In order to get hold of as much freehold land as possible, critics of the Bill suggested Maori should be allowed to deal with their own lands, without the restrictions of a Board or agent. These people knew full well that if this was the case, inexperienced Maori would become the victims of unscrupulous land dealers bent on purchasing as much Maori land as possible. Maori would then be left with nothing.

Other politicians used the debate to make political capital, and to gain political ground. The speeches were many and varied, and were delivered by both Maori and Pakeha MHRs. Critics of the Bill complained that important legislation was being rushed through, leading the Opposition Leader William Massey to remark that he knew 'perfectly well that if the Bill goes on to the statute-book in its present form, it will be a disappointment to its supporters and a miserable fiasco.'⁵⁷ After the first reading of the Bill, the Opposition with the support of dissident Liberals was able to insert an amendment that confined the operation of the Bill to the lands already reported on in the early Commission reports which had been presented, which would have necessitated a further validating Act in 1908. However the Government, anxious to proceed with the settlement of Maori lands, was not prepared to tolerate this. Carroll had this amendment removed in the Committee stage of the Bill and restored

⁵⁶ *NZPD* 1907, Vol 142, p.1033.

⁵⁷ *Ibid.*, p.1072. See also his speech pp.1046-1047.

to the Bill the original proposal that lands yet to be reported on by the Commission might be included within its scope.⁵⁸

Opponents such as the Opposition Member for Bay of Plenty, William Herries, also attacked the Bill for giving such wide future powers (to the Commission and Native Minister) with regards to the disposal of Maori land. By guaranteeing that whatever the Commission recommended would be supported by the full force of the law, Herries argued that adopting the Bill would be a mistake and would allow for the Commission to take up a position (of law-making) that ought to be occupied solely by Parliament. Critics also believed that the Bill was authorising the Commission to 'do something that may be dangerous or injurious to the country'.⁶⁰

In the Native Affairs Committee there was a bitter squabble over the Bill. The Chairman of the Committee A.L.D. Fraser believed that the Bill deprived Maori of their pre-emptive right because they had no say in the disposal of their lands. Fraser told Parliament that neither the early reports of the Commission which gave up land for Maori occupation, nor the Bill, were the correct way to protect Maori land interests, and to deal with opening up Maori land for Pakeha settlement. He believed that:

'What we should do is to take the Natives [sic] who require land to occupy, sell a portion of their land, and let them start financial. Never start a Maori with a mortgage: [as Part II of the Bill was offering] it is too often a millstone to a European, but it is disastrous for a Maori...[instead] earmark the proceeds for the purpose of fencing and stocking the land. Unless that is done it is useless turning the Maori on their own land without assistance. Under the present legislation I fail to see where you are to obtain it. The whole theory of the Royal Commission is Utopian, theoretical, the ideas of a dreamer. To put the Maori on then land...one must realise that his [sic] only salvation is example, a technical education, encouragement, and, with all, the firm hand that will not be trifled with.'⁶¹

This particular speech is a fine example of the stereotypical rhetoric which characterised much of the Pakeha opposition to the Bill. Maori values and the way they had been oppressed were never appreciated, and the idea of 'Maori lashing their money about', was based on an ignorant stereotype which failed to understand the Maori world-view of money control. The Commission's own Chairman, Sir Robert Stout, was guilty of the very same attitude.

Herries, like Fraser, also believed that the Bill was doing a 'gross injustice' to the Maori, in that forcing them to sell was depriving them of their land whether they liked it or not. Herries believed that by the Act Maori had their 'backs to the wall, and were obliged to surrender their land just because there was an outcry from Pakeha demanding land'.⁶² This seems to be a very enlightened opinion from a politician whose colleagues held such prejudiced views of Maori! Indeed Herries was being

⁵⁸ Speech by James Carroll, *NZPD* 1907, Vol 142, p.1032.

⁵⁹ *NZPD* 1907, Vol 142, p.1119.

⁶⁰ *Ibid.*, p.1038. See speech by Herries. See also discussion by Premier Ward, p.1048.

⁶¹ *Ibid.*, p.1064. (Fraser)

⁶² *Ibid.*, p. 1121. Another MP, Hon. Mr Ormond, also questioned what right to appeal the Maori were to have under the Bill, as to being satisfied with the lands that are given to them. (p.1147.)

cynical. As a supporter of the freehold, he would have considered that if Maori voluntarily offered their land for sale then that was a different matter. In that sense, Herries also failed to understand that Maori were inexperienced dealers in a manipulative system. He could not see that if Maori land was open to freehold purchasing by individuals, then many people would be left landless and destitute as the hands of a few cunning agents.

On the contrary, in support of the Bill was Ngata's mentor Wi Pere, who delivered a resounding speech to the Legislative Council in full support of the proposed Bill. This action must have cheered Ngata greatly. Pere acknowledged that there were faults in the Bill, but also believed that it was never possible to produce something which was absolutely perfect. Rather, Pere believed that the Bill was an honest attempt to deal with Maori land openly, and described the proposed legislation as a 'seed planted, [from which] a tree will grow of which the Maori will enjoy the fruit.' Under this Bill, Pere stated, 'the land will reach its market value, it will be auctioned, and it will go to the highest bidder.'⁶³

Pere did not seem to be struggling with the provisions of Part I, and chose to ignore Section 11 throughout his speech. Indeed he praised the increased powers given to the Maori Land Boards by the provisions of the Bill. He believed that with the Boards representing Maori owners in all transactions, both sale and lease, there would be no more lawyers' fees or agents costs. Such costs had been 'turning the screw' and 'jamming Maori down', and Pere was well satisfied that the Bill would prevent this. He also supported the speed in which the Bill was being rushed through Parliament, because he felt that it would prevent thousands more acres of Maori land being recklessly sold and snatched up by 'land sharks' in the following year.⁶⁴ Pere spoke at some length about the Bill, and his words were warm and enthusiastic as he strongly encouraged other parliamentarians to allow the Bill to pass. He had obviously decided that the benefits of Part II far outweighed the disadvantages of Part I, and in his concluding statement, he asked:

'...that this Bill be allowed to go through; I ask that no opposition at all be offered to it, so that it may become law at once. I feel certain that all the people of my district will be delighted with it. Their hands will be untied...and they will be able to lease part of the land to Pakeha, for which he [sic] will pay rent, and they will be able to work the pieces that they desire to work. At present I cannot see anything obnoxious in the Bill.'⁶⁵

However, under scrutiny, it can be seen that the legislation of 1907 was not so much in the interests of the Maori owners as of Pakeha settlement. Despite the provisions of Part II of the Act, most of the Maori MHRs felt that the 1907 Act offered no truly substantial measures to help the Maori settle their land. In particular, Henare Kaihau, MHR for Western Maori, vehemently believed that the Bill was a direct trampling upon the mana which was assured to Maori under the Treaty of Waitangi, as it took the control and administration of Maori lands away from them. Kaihau considered

⁶³ NZPD 1907, Vol 142, pp.1149. (Pere)

⁶⁴ Ibid., pp.1149-1151.

⁶⁵ Ibid., p.1150.

that the Bill's provision marked a new departure in regard to Maori lands, and he rightly asked if Pakeha would like to have their business administered by Boards.⁶⁶

Kaihau felt that the Bill removed the control of Maori lands out of Maori hands. By 'robbing' the Maori of their power and mana, Kaihau believed that the Act would leave Maori landless and destitute. 'By the Treaty of Waitangi the Maori were to be allowed to manage their own affairs, but this Act was confiscation', he stated angrily, and then attempted to move before Parliament that the Bill be set down for a second reading the following year, in order for it to be properly discussed among the Maori people in the interim.⁶⁷

It should also be noted that 50/50 split of lands for general settlement was not based on any recommendation made in the early reports of the Commission, and as Gilmore writes, 'it was not the Commission who betrayed the Maori cause.'⁶⁸ Indeed, this provision was completely out of step with the procedures adopted by the Commissioners from the beginning. Their practice so far, had been to consult (as far as possible and practicable) with the Maori owners concerning the disposition of their lands, and then to produce lists which, piece by piece, made specific proposals for what was to be done with the land.⁶⁹ The Commission had issued a report based on its hearings, and in making its recommendations had taken into account not only what Maori wanted, but what in its judgement would be in their best interests.

For example, one of the Commission's first major reports which appeared in 22 March 1907, dealt with a number of blocks in the Tairāwhiti Maori Land District on the East Coast (as previously discussed). Here the Maori owners made specific proposals for each block of land in the district. The Commissioners approved most of these proposals, and produced a Schedule which made specific recommendations for each of the blocks. The report identified 2475 acres of land which the Maori owners had decided they did not require for their own purposes, and were thus prepared to lease.⁷⁰ However, under Section 11 of the Act, half of this land would have had to have been sold, with the owners having no choice in the matter. Clearly this was against the wishes of the Maori owners and the recommendations of the Commissioners. As Section 11 applied to the recommendations made in the first reports, the effect of this provision meant that their wishes would be effectively overruled.⁷¹

As a result Stout and Ngata felt they would be hampered by the proviso of Section 11, Part I, in the future. They felt that bringing lands before the Commission was a voluntary act by Maori, and the fact that much of their land could be compulsorily sold and leased would discourage many Maori from having their lands made subject to the Commissioners' reports, and consequently to Section 11.⁷²

⁶⁶ NZPD 1907, Vol 142, pp.1054-1056.

⁶⁷ *Ibid.*, Kaihau would later cause some difficulty for the Commissioners in their attempts to reach his people, may be these feelings were still fresh in his mind?

⁶⁸ Gilmore, 'Maori Land Policy and Administration during the Liberal Period 1900-1912', MA Thesis, p.64.

⁶⁹ Loveridge, Maori Land Councils and Maori Land Boards: An Historical Overview, p.72.

⁷⁰ AJHR 1907, G.-1., pp.9-11 (report) and pp.14.16 (schedule)

⁷¹ O'Brien, 'The Stout-Ngata Native Land Commission...', BA(Hons) Essay, p.40.

⁷² Martin, 'Aspects of Maori Affairs in the Liberal Period', MA Thesis, p.129.

Furthermore, Ngata was opposed to this section of the Act because he felt it put Maori in the position of 'the poor man who should receive the crumbs from the master's table.'⁷³ There was nothing in this part of the Bill about assisting Maori to work their reserved land for Pakeha political opinion was not in favour of such an innovation - the legislature was not interested in aiding the settlement of Maori on their own lands with the same vigour with which it pursued the settlement of Pakeha on Maori lands.⁷⁴

The Commission thus strongly recommended that Section 11 be removed from the original Bill. However, according to Loveridge, in describing the provisions of Section 11 as an inadvertent 'mistake' by Parliamentarians, 'Stout and Ngata were indulging in a polite fiction.' Ngata knew better than anyone else that the objectionable provisions had been placed in the Act because the Government had succumbed to political pressure; he himself toed the party line and voted for a measure he would later condemn.⁷⁵ However, another point to consider, is that although Stout and Ngata felt that the Act would hamper their work and disadvantage Maori landowners, Ngata did support the Bill through Parliament because it contained the important provisions for Maori in Part II.

Nevertheless, because the Government had to satisfy both the leasehold and freehold sides of the House in order to get the Bill passed, and because it was thought that a concession to the demands of farmers was long overdue, various provisions not in the interests of Maori owners were included in the 1907 Act. Butterworth wrote, that instead of respecting the Commission's early findings, Section 11 of the *Native Land Settlement Act 1907* was a 'bungling attempt'⁷⁶ to satisfy both Pakeha leaseholders and freeholders, by decreeing that of the land intended for Pakeha occupation half should be leased and half sold. In his thesis Richard Martin believed that there could be little doubt that Section 11 was a capitulation to sections of the Pakeha community, and acknowledged the strength of the Pakeha attack on Maori 'landlordism'.⁷⁷

The Commission's protests at Section 11, and the opposition of others thus fell on deaf ears and the Bill was passed into law, with its guidelines to be followed by the Commissioners in their future sittings. With great confidence in the new Act, Premier Ward told parliament that it would allow for the Commission to continue its great work:

⁷³ Speech by Apirana Ngata, *NZPD* 1907, Vol. 142, p.1072.

⁷⁴ Martin, 'Aspects of Maori Affairs...', MA Thesis, p.133.

⁷⁵ Loveridge, *Maori Land Councils and Maori Land Boards*, p.73.

⁷⁶ G.V. Butterworth, 'The Politics of Adaptation: the Career of Sir Apirana Ngata, 1874-1928', MA Thesis, University of Canterbury, 1969, pp.127-128.

⁷⁷ Martin, 'Aspects of Maori Affairs...', MA Thesis, p.129. What was this Pakeha fear, and was it based on racist tendencies? Ballara has also discussed the pervasive nature of this fear at the time. She writes that Pakeha in the early twentieth century tended to complain of the 'evil' of 'Maori landlordism', and frequently complained that it was not right that they should have to be tenants of the Maori. Leasehold tenure of Maori lands was a system unfair to Pakeha, they felt, imposed by a government overly anxious to protect the Maori. Virulent objection to Maori as landlords was not simply based on the economic stresses involved, but was also based on racist grounds. It was felt by many Pakeha that the paying of large rents to Maori 'would constitute a very questionable benefit for them, as unearned income would be fatal to a race who have not yet emerged from barbarism...' Racism was evident in many Pakeha attacks on Maori 'landlordism', for example Pakeha complained that the Government 'grossly favours the scheme for making a permanent and privileged land-lord class of Maori landowners for which Pakeha settlers and their descendants will for ever toil as rack-rented tenants.'! (Ballara, *Proud to be White?*, pp.78-81.

'I have confidence in the Royal Commission that it will do its work faithfully, and it is therefore, in my opinion, our clear duty to ask the Royal Commissioners to go on prosecuting the important work that they are authorised to do under their Commission.'⁷⁸

THE COMMISSION'S REACTION TO THE 1907 ACT

With Stout's health restored, and the new legislation in place, the Commissioners continued to submit their reports throughout the rest of 1907 and 1908. However, no sooner had Ngata voted in support of the Act, then the Commissioners released a particularly notable report in March 1908 (AJHR 1908, G.-1F), in which they resumed their attack on the 1907 Act. This was considered a 'special' report, and was dedicated solely to a discussion of the legislation as it related to the Commission's work, in which the Commissioners pointed out certain difficulties in administration which had been created by the provisions of Section 11 of Act.

There was no doubt according to Stout and Ngata, that knowledge of the provision had prevented many Maori from appearing before the Commission in the later sittings which were held after the Bill had been passed. Section 11 created further Maori distrust of the Government and in fact hampered the opening of Maori land for settlement (as they had earlier predicted). In particular, the Commissioners found that amongst the Whanganui and Ngati Maniapoto iwi there was much distrust of Section 11. The people believed that they ought not be prevented from either selling or leasing their lands if they pleased, however the effect of Section 11 was to force them, if they wished to lease their lands, to sell the half of what they wished to lease. The Maori owners thus felt that if they did not come before the Commission, and did not offer any land for sale or lease, their lands would remain unsettled, but would still remain Maori lands (unless in an unlikely scenario, the Commissioners recommended that the lands be taken without Maori consent). Maori also believed that an advantage was given to those who refused assistance in the opening-up of their lands for settlement. Because of such reasoning, Stout and Ngata felt that their work in obtaining the consent of Maori for the opening up of their lands for settlement, had been hampered.⁷⁹

In highlighting the inequities of the Act, the Commissioners used the following example: If Maori owners had resolved to lease say 2000 acres of land, and the Commission had reported that this area was not necessary for their own occupation, the result under section 11 of the Act, would be that the District Maori Land Board would then have to sell 1000 acres, and only lease 1000 acres. It might happen, suggested the Commissioners, that the land Maori had desired to lease was land belonging to their children or successors, to whom the land would have been necessary for their occupation when they came of age. But the Board would have been forced to sell half of the land, thus perhaps depriving the true owners who were under age, of the possibility of utilising the land when they grew up. 'Such instances

⁷⁸ NZPD 1907, Vol 142, p.1048.

⁷⁹ 'Report of the Native Land Commission on the Operation of Section 11 of the *Native Land Settlement Act 1907*', AJHR 1908, G.-1F, pp. 1 and 3. Furthermore, Stout and Ngata also felt that the provision was a direct encouragement to Maori not to put their lands under the management of the Maori Land Boards, but to allow the system of private land-dealing to continue which permitted favoured persons only to obtain leases of Maori lands.

as these are entirely ignored by the statute', complained Stout and Ngata, 'and we are of the opinion that the full effect of this provision was not clearly seen by the Legislature, else we feel sure it would not have been enacted into law.'⁸⁰ According to Loveridge, Stout and Ngata clearly implied that Section 11 amounted to confiscation of Maori lands.⁸¹

In the same special report, Stout and Ngata also pointed out some of the numerous examples of injustices that might be done were Maori (under the Section 11 of the 1907 Act) compelled to sell half of the land they desired only to lease. They referred to cases where the Crown had recently purchased large areas of land from Maori, particularly in Upper Whanganui and the King Country. For instance they cited one block that consisted of 21,361 acres, of which the Crown had bought four-fifths, leaving to Maori only one-fifth. If Section 11 was enforced, stated the Commissioners, these Maori owners could not lease what was left to them without having to sell half - that is, they would then only have one-tenth left in their ownership. Must Maori be forced to further divest themselves of what little lands they had left? questioned the Commissioners; for that, they believed would be the result of enforcing Section 11.⁸² Thus, it only seemed fair to the Commission that the large areas already acquired by the Crown be taken into consideration when the disposition of the balance held by the Maori owners was under review.

Furthermore, Stout and Ngata found in the Rohe Potae, that since their early report which was issued in 1907, the Crown had bought large areas of land. Some of these lands had been recommended for sale by the Commission, however many acres had also been recommended for lease only or to be set aside for Maori occupation. Nevertheless, the Government had chosen to ignore the Commission's recommendations, and proceeded to purchase large areas in the King Country. Such action led Stout and Ngata to question the Government as to how Section 11 was now going to be implemented in the King Country. Was the area that had been set aside for Maori occupation, or for sale or lease, and that had become the Crown's property, to be deemed a sale under Section 11? If not, were the Maori to be bound to sell still more of their land so that its provisions would prove effective? The Commissioners believed that it was only fair to take into consideration the area made available for general settlement by the Crown purchases in the three years prior to the Commission, and to question whether the area sold to the Crown then should be deemed to be land sold under Section 11?

⁸⁰ AJHR 1908, G.-1F, p.1.

⁸¹ Loveridge, *Maori Land Councils and Maori Land Boards*, p.73.

⁸² Ibid., p.3. To quote another example used by the Commissioners to highlight the injustice of Section 11, they mentioned the Taumatamahoe Block in the Upper Whanganui district. This was originally a large block containing 155,300 acres, to which the Maori obtained a title in 1886. By 1893, the Crown had purchased 82,670 acres, leaving 72,630 acres to the Maori. In 1896, the Crown acquired a further 19,765 acres of this balance, and three years later another 12,161 acres. In 1906 the Crown again purchased, and by the time of the Commission there was only 25,163 acres left to the Maori owners from an original acreage of 155,300. In their first report on the Whanganui district, the Commissioners recommended that an area of about 5,000 acres should be reserved for papakainga and for farms for the owners, the balance of 20,000 acres to be leased. The owners did not wish to sell. However, under Section 11, 10,000 acres would have had to be sold. Thus, Stout and Ngata asked that: 'Should not the very large area already acquired by the Crown be taken into consideration when the disposition of the balance held by the Maori owners is under review?'

The Commissioners thus strongly suggested that an alteration of the existing law be carried out, and while acknowledging that it was not their duty to enter into political disputes, the Commissioners then proceeded to point out at great length why the provision was discriminatory. The Commissioners also objected to section 11 on the grounds that this provision placed Maori landowners in an inferior position to that of the Pakeha, denying Maori the same property rights as those of Pakeha freeholders. By obtaining certificates of title from the Crown, Maori landowners had been considered freeholders, and by the *Native Rights Act 1865*, they had been guaranteed the same political rights and rights of property as other subjects of the Crown. The Commissioners highlighted the double standard with which the Government treated Maori and Pakeha, and argued that if the same law was applied to Pakeha, it would be deemed a great infringement of property rights. This opinion led them to comment: 'are the people of New Zealand prepared to say that no Pakeha freeholder can lease their land unless they are prepared to sell half of it?'⁸³

In raising the issue of the Government's unequal treatment of Maori and Pakeha landowners, the Commissioners verged on questioning the whole basis of their official Terms of Reference. If it was said that the Maori had large tracts of land unoccupied and unused, the Commissioners urged that the following facts be considered:

1. 'That land unoccupied in the Pakeha sense was, and still is used by the Maori in some instances for hunting, as well as sanctuaries for birds and the like;'
2. 'It cannot be expected that the Maori [people] without training can at once become expert farmers according to Pakeha methods;'
3. 'The State, having refused to recognise Maori titles in any Courts, and having compelled Maori to get grants or certificates from the Crown as their basis of title through the procedure of Native Land Courts, has prevented them getting titles to their lands save after long delays and at great expense;'
4. 'Compelling them to have their lands surveyed before ascertainment of title has also cast a great burden on them;'
5. In many cases the ascertainment of title to a block has taken years to complete.'

The first point in particular challenged the whole Pakeha assumption of unused land, and criticised the prevailing Pakeha view. 'We venture to affirm', concluded the Commissioners, 'that if Pakeha had been placed in the same position as Maori in regard to their titles, they also would have had thousands of acres unoccupied. It may also be pointed out that many Pakeha own unoccupied lands, and...it has not been suggested that such lands should be confiscated by the State.'⁸⁴ The Commissioners were getting very close to the bone here!

Maori themselves greatly resented the attempt to place them in a servile position compared with Pakeha landowners, and gained much support from the Commission who agreed with the Maori perspective. In what must have been seen in Government circles as an affront to the Liberal and Pakeha perspective, Stout and Ngata stated unashamedly that the Crown had a 'right to see that Maori, unused to our civilisation and unused to our individual system, shall not deprive [themselves] of the land that

⁸³ *AJHR* 1908, G.-1F, p.2.

⁸⁴ *Ibid.*, p.4

belongs to them and their tribes.’⁸⁵ To acknowledge the disruption Maori had suffered as a result of colonisation and the consequent duty the Crown had to aid Maori, was an enlightened view for the time, and certainly one which the Government did not want to hear from its own appointed agents.

In writing their special report on the operation of Section 11 of the 1907 Act, Stout and Ngata were trying to emphasise the inconsistencies of the Act. They believed that the provisions, certainly Section 11, had not been well thought-out, and were eager to show through their examples that even the Government could find itself tripped up by the provisions. Furthermore, the Commissioners unequivocally believed that the Act highlighted blatant inequalities in the Government’s treatment of Maori and Pakeha landowners. The Act had created more problems than it would solve, and Stout and Ngata thought very little of it. The interim report, AJHR 1908 G.-1F, proved to be an astute criticism of the *Native Land Settlement Act 1907*, and a condemnation of the very piece of legislation which was passed in order to give effect to the Commission’s recommendations. That simple fact highlights the widening gap which had occurred in the thinking of the Commission and of the Government.

The Commissioners referred again to the 1907 Act in a report which they released in August 1908, summarising their previous work. Under Section 11, it became the duty of the various District Maori Land Boards to carry out the equal division of lands into those for sale and for lease. ‘It was not part of our duty as a Commission to recommend such division’, stated the Commissioners, ‘but only as it were, to declare that the Maori owners of a district or of a particular block had so-much surplus land for disposal under this section.’ Stout and Ngata thus felt that they had been placed in the position of setting in motion the machinery which brought Section 11 into operation, and in many cases they felt they could not do such a thing.

Again, they reiterated that knowledge of the existence of this provision, no doubt prevented many Maori from appearing before the Commission. Instead it became a direct encouragement to Maori not to put their lands under the management of the Maori Land Boards, and to continue allowing the system of private land-dealing, which according to the Commissioners permitted only certain favoured persons to obtain tracts of Maori land - contrary to the expressed wishes of the Government.⁸⁶ In the Commissioners’ opinions, Section 11 thus forced Maori to remain with a system of land dealing that was not only unequal and unfair, but prone to underhand tactics. Stout and Ngata deemed it their duty to point out such difficulties, and advised that the section be amended so that the Land Boards would no longer be hampered in the administration of Maori lands. The Commissioners also believed an amendment of the section was necessary in accordance with the wishes of the Maori owners, as outlined during the sittings, and frequently referred to by the Commissioners in their recommendations.

Nevertheless, regardless of the difficulties thrown at the Commission by the passing of the *Native Land Settlement Act 1907*, Stout and Ngata had to overcome the ‘clumsy intervention of the Government’, and work had to continue, with their reports eagerly awaited both in Parliament and throughout the North Island. According to

⁸⁵ AJHR 1908, G.-1F, p.2.

⁸⁶ ‘Further Report of Native Land Commission, Summarising previous reports’, AJHR 1908, G.-1Q, p.3.

Butterworth, the Commission overcame Part I of the 1907 Act by simply extending its labours until it had sufficient land offered for sale to meet that formula. In this way, 'it kept faith with those who had originally entrusted them with land in 1907.'⁸⁷

FIRST GENERAL REPORT

By mid-July of 1907, the Commissioners had produced reports on only four cases, some of which would require further investigation. Nonetheless, they were ready to issue their first General Report, which dealt with matters of general interest arising out of the inquiries that they had made into the position of Maori lands in certain districts of the North Island. Drafted during the progress of the 1907 Bill, the Commission's First General Report was their most extensive and wide-ranging presentation, and was conveyed to the Governor on 11 July 1907.

The Commission had been given clear directions about writing their reports, at the outset, and they had to have regard to Maori lands that were 'unoccupied or not profitably occupied', and how those lands should be utilised and settled. The Commission was also instructed to investigate the workings of the Maori land laws and to make recommendations for their reform. As usual, the interests of the Maori owners had to be taken into account, but in addition, the 'public good' had to be considered. However, the Commissioners found repeatedly during the course of their investigations, that the true interests of the Maori were not compatible with the Pakeha public's desires to alienate Maori land and vice versa.⁸⁸

According to Stout and Ngata, their first General Report considered many questions raised in the early reports, and mentioned all the issues and problems which the Commissioners would continue to repeat throughout the rest of their interim reports. The first quarter of the report was dedicated to the Commissioners' preoccupation with consolidating Maori land legislation (as defined in the previous chapter when the Commissioners sent out various questions to the Native Land Court judges and registrars concerning their attitudes to the weaknesses in the legislative system relating to Maori land) and covered what Stout and Ngata saw as the failings of the legislature and statutes with regards to Maori land. Initially, the general report also set the historical context for all the reports by reviewing the Liberals' Maori legislation and its leasing policies. The Commission hammered all the weaknesses of the old system, particularly individual purchase.

The Commissioners' opinions and recommendations from the first 'General Report', were also continually repeated in their later reports, and primarily included: (a) the prohibition of Crown purchases, questioning about the present mode of leasing Maori land and whether the current system should have been continued, and the need to

⁸⁷ G.V. Butterworth, 'Maori Land Legislation: The Work of Carroll and Ngata', New Zealand Law Journal, (August 1985), p.246. On the contrary, Loveridge wrote that '...most of the Commission's work was carried out in the shadow of the Native Land Settlement Act 1907...' (Loveridge, Maori Land Councils and Maori Land Boards, p.69.) I am more inclined to agree with Butterworth's original statement, given that research of the Commission's proceedings has shown that in fact the Act was not a prominent feature of discussion between the Commissioners and Maori. Certainly a man of Stout's nature was not going to be limited in his recommendations and opinions by what he saw as a piece of debatable legislation! Stout tended to "call things as he saw them", regardless of the provisions of certain legislation.

⁸⁸ Selwyn Katene, 'The Administration of Maori Land in the Aotea District, 1900-1927', MA Thesis, Victoria University of Wellington, 1990, pp.196-197.

eliminate abuses in the leasing of Maori land by making the land available to a wider range of people through the use of public auction; (b) increasing the role currently given to District Maori land Boards, and expanding their powers as agents and administrators of Maori land; and (c) the need for agricultural education and finance for Maori wanting to become farmers on their own land. The Commission castigated governments of the past for having done nothing to encourage or assist Maori to farm their own land.

To begin with, Stout and Ngata felt that it was necessary before stating their opinion as to the best mode of opening to settlement the unoccupied Maori lands, to include in the first 'General Report', a review of the existing modes of disposition and schemes for the settlement of Maori on their own lands. The consequent analysis featured an extensive review of Maori land policy and legislation since 1865, including the legislation currently in operation, and of the present tenure situation,⁸⁹ and showed that from the beginning the Commissioners had taken a great interest in the legislative situation.

Stout, in particular, was extremely anxious to re-write the Maori land statutes, and to repeal all of the many previous Acts which had either failed in their stated aim, or merely further complicated matters. However, before any legislation could be created, the Government needed to know exactly what it was dealing with - how much Maori land was there left, and what was its state of title. Such an undertaking extended much further than the Commission's Terms of Reference, and indeed would be an almost impossible task. Yet, in their first 'General Report' the Commissioners attempted to outline some of the basic alterations which they felt would be required in the consolidation of the country's Maori land laws.

In drafting their first General Report, the Commissioners had not as yet made full inquiry into the procedure and judicial functions of the Native Land Court, but as described in the previous chapter, they had sent out questionnaires in the hopes of obtaining the opinions of the judges and registrars of the Court. Nevertheless, having examined the relevant legislation, the Commissioners were 'strongly of the opinion' that the statutes dealing with the procedure of the Court and its functions in regard to the ascertainment of title, succession, wills, adoption, and appeals should be codified, and the law embodied in one Act.

Stout and Ngata also felt that there was an 'urgent necessity' for a record to be compiled which would reveal the extent of ascertained land owned by each Maori in a district. Such a record is 'absolutely necessary', stated the Commissioners, in view of any legislation based upon the assumption of surplus lands, and recognising the advantage of consolidating as far as possible the interests of individual Maori or of families. Stout and Ngata recognised that this would be a large undertaking, but implored that it be done in 'fairness to Maori and for the satisfaction of the country.'⁹⁰ Such a record would not have been compiled for 'each Pakeha'! Here, the Commissioners recognise the realities of the pressure on Maori, and were trying to

⁸⁹ Loveridge, *Maori Land Councils and Maori Land Boards*, p.69. Loveridge also notes that the Stout-Ngata review of legislation was presented as an extension of that in the Rees Commission's 1891 report.

⁹⁰ First General Report of Stout-Ngata Commission, covering Native Lands and Native Land Tenure, AJHR 1907 G. - 1C p.19.

protect the people. However Stout and Ngata were inconsistent with their double standard.

In their review of past government policy and legislation, the Commissioners found that it was widely accepted that the Maori land laws were confusing, and in need of major revision. Since the 1860s, Maori land legislation reflected changes in policy which corresponded with which political party was in government. 'While there has been no material change in the method of investigating titles,' wrote the Commission, 'the mind of the Legislature has swung like a pendulum between the extremes of restrictions against private alienation and free trade in Maori lands.'⁹¹

The report then proceeded to give a précis of the historical review made by the Royal Commission of 1891, composed of Messrs W.L. Rees, James Carroll, and T. Mackay. This touched on the details of the *Native Lands Act 1865* in which customary tribal land ownership gave way to Crown-derived titles, granted to ten individuals who became the absolute owners, and its subsequent amendments which established certificates of title, and allowed for the nominal Maori owners to lease out their land. In 1873, another great change occurred in government policy whereby the principle of individual title was established. According to the 1891 Commissioners, 'the tendency in the 1873 Act to individualise Maori tenure was too strong to admit of any prudential check'. The desire to purchase Maori estates over-ruled all other considerations, and the alienation of Maori land under the 1873 Act took its very worst from, obtaining land from a 'helpless people'. In support of these earlier comments from the 1891 Commission, Stout and Ngata stated that:

'...so far the policy followed by Parliament was to permit direct negotiation for the sale, lease, or mortgage of Native [sic] lands, subject to ascertainment of title and complying with certain formalities. The Crown had waived the right of pre-emption. This was the heyday of the free-trade policy.'⁹²

1886 ushered in more changes, with the *Native Land Administration Act 1886* attempting to stop individual dealings in Maori land. The Act failed partially because Maori land-owners objected to losing control of their lands, and was repealed by Section 4 of the *Native Land Act 1888*, which revived free-trade in Maori land.⁹³ Thus, in 1891, the Rees Commission recommended the appointment of a Native Land Board which would, under the direction of Maori committees, be empowered to manage Maori lands. It expressed the opinion that 'the public would thus be able to obtain land in many districts now locked up...at inconsiderable cost, with perfect titles, and without delay.'⁹⁴

Following this review of the Rees Commission, it remained for Stout and Ngata to sketch the progress of policy since 1891. In 1892 the pre-emptive right was resumed⁹⁵.

⁹¹ Ibid., pp.1-2.

⁹² Ibid., p.3.

⁹³ Katene, 'Administration of Maori Land in the Aotea District', p.199.

⁹⁴ *AJHR* 1907 G. - 1C, p.4.

⁹⁵ Brooking notes, that the Native Land Court Act 1894 virtually introduced full Crown pre-emption. (It was not quite full Crown pre-emption because the Minister retained the power to grant exemptions without consulting Parliament.) The 1895 Native Land Laws Amendment Act also exempted Maori land from Crown monopoly held inside town districts or boroughs, if the block was less than 500 acres. Subsequently, there were brisk sales of small parcels of land, and in 1907 the Commission noted that 423,128 acres of Maori land had been sold

and the Crown began the systematic purchase of more Maori land, followed by the prohibition of private dealings in Maori land in 1894. From 1895 to 1900 there were many amendments to various Acts, but there was no change in policy. However, the Commission noted, that the subject of Maori land legislation and the question of land settlement occupied the forefront of colonial politics more than any other matters. By the turn of the century, Maori opinion had consolidated on two points. Firstly, there was a strong desire that the Government cease the purchase of Maori lands, and secondly, that the 'adjudication, management, and administration of the remnant of their lands be vested in controlling Councils, Boards, or Committees composed of representative Maori.' The *Maori Lands Administration Act 1900* sought to give effect to these two urgent desires.⁹⁶

However, according to Williams, Ngata saw the *Maori Lands Administration Act 1900* as an 'unworkable compromise between opposing principles', which he only accepted as being better than nothing at all.⁹⁷ In the Commission's first General Report, which he and Stout co-authored, they concluded that the 1900 Act had been 'doomed to fail', because on the whole, the Maori people had showed an unwillingness to entrust the administration of their lands to the various Councils.⁹⁸ Stout and Ngata stated that the four main reasons for this were: that Maori objected to being deprived of all authority and management of their ancestral lands; that experience had not convinced them of the stability of legislative enactments, and they suspected that the new policy was only another attempt by the State to sweep up large areas of their rapidly dwindling lands; that they had not as yet been convinced of the expense, delays, and uncertainty which surrounded alienations by direct negotiation, and still felt that they could perhaps achieve a fair value for their land through private dealing; and that most of the lands which in 1900 were declared to be lying idle and unproductive, 'had reached a stage when the struggle in the Native Land Court was...to be most acute, and for the majority of Maori owners, so long as the title was in abeyance and they were immersed in the joys of litigation, the settlement of the country could wait. It was for the moment outside the range of their politics.'⁹⁹

Between 1900 and 1906, the Commission found that the legislature was encroaching upon the principle of voluntarily vesting lands in the councils for administration. For a time, legislation was based on the principle of voluntary vesting, however the position reached by 1906 was very different. Parliament, recognising the general unwillingness of Maori land-owners to place their lands under the administration of the Land Councils or Bards, decided to resort to compulsion in certain cases. In conjunction with the development of this policy, limited private alienation was permitted by the legislation of 1900, and many blocks were also leased with the consent and upon the recommendations of the Councils. And so, wrote the Commission, the tendency towards 'free-trade' which had persisted throughout the

directly from Maori to Pakeha buyers under the Liberal Government. (Tom Brooking, *Lands for People?: the Highland Clearances and the Colonisation of New Zealand: a Biography of John McKenzie*, Dunedin, 1996, pp.138-140.)

⁹⁶ AJHR 1907 G. - 1C, Ibid., p.5., and also Katene, 'Administration of Maori Land in the Aotea District', p.200.

⁹⁷ John A Williams, *Politics of the New Zealand Maori: Protest and Cooperation, 1891-1909*, Oxford, 1969, p.111.

⁹⁸ AJHR 1907 G. - 1C p.6.

⁹⁹ Ibid., p.6.

long course of legislation, developed in 1905 a demand for the removal of all restrictions against leasing. The adherents of that policy succeeded in enacting the *Maori Land Settlement Act 1905*, 'which permitted a greater measure of freedom in leasing Maori lands than had been enjoyed for over a decade.'¹⁰⁰

Stout and Ngata believed that the legislation of 1894 to 1900 had created a deadlock in the settlement of unoccupied Maori lands. By 1905 the Government was forced to resume Crown purchases, to sanction the compulsory vesting of Maori lands in the Land Boards, and to reopen the free leasing of Maori lands. In concluding their review of previous legislation, the Commissioners wrote that:

'There is no doubt in our minds that the legislation of 1894 to 1900...by tying the hands of the Crown in the further acquisition of Native [sic] lands, by restricting the leasing of those lands and by substituting a system dependant for its success on the willingness of the Native owners to vest areas in the administrative bodies constituted, created a deadlock and a block in the settlement of the unoccupied lands. On the other hand, the vigorous settlement of Crown lands under the Land Act and the Land for Settlements Act exhausted the available supply of lands available for close settlement. The agitation of 1904 and 1905 forced the Crown once more into the field to resume its purchases, forced Parliament to sanction the compulsory vesting of land in the Maori Land Boards, and reopened the free leasing of Native lands.'¹⁰¹

In light of their understanding of the evolution of Government policy, the Commissioners delivered four main recommendations with regards to their ideas on future legislation and methods of disposition of Maori lands. [At the same time the report entered into a discussion of the existing modes of disposition.]

1. That the purchase of Maori lands by the Crown under the present system be discontinued.

The dangers incidental to the sale of Maori lands as a result of the exercise of the pre-emptive right of the Crown, had been a subject of frequent debate in Parliament. Consequently, the view of the Commission was noted with more than passing interest. With regards to the history of Crown purchases of Maori land, Stout and Ngata noted that prior to 1905 there was no minimum price offered by the Government for Maori land, and with the exception of public works and scenic reserves, there was no compulsory acquisition of such lands. In 1905 a fixed minimum price of the capital value was assessed for Crown purchases, but in the absence of competition an approach to true market value was difficult to ascertain. In the case of lands with timber on it, the Crown made no allowance for the value of the timber, and as a result the Maori owners were penalised because the timber resources were not considered an asset and therefore were of no value to the purchaser.¹⁰²

To the Commissioners, this clearly demonstrated a situation where one party manipulated land values at the expense of the weaker party. The inequitable manner in which the Crown purchased Maori land showed that the Crown was more

¹⁰⁰ Ibid., p.7.

¹⁰¹ Ibid.

¹⁰² AJHR 1907 G. - 1C p.8., and also in Katene, 'Administration of Maori Land in the Aotea District', p.203.

concerned with its own interests than the welfare of the Maori land-owners. However, despite Maori protestations, the Government continued with its pre-emptive policy.

Theoretically, the Commission said, the Crown did not buy land unless the owners were willing to sell. However, according to Stout and Ngata, the experience of half a century showed: (a) that in the absence of competition produced by restrictive legislation, and in the face of expenses such as survey and litigation costs, circumstances had been created which practically compelled the Maori people to sell at any price; (b) that the individualisation of titles gave to each owner the right of bargaining with the Crown and selling their personal interests. This in turn gave scope to 'secret dealing', and practically rendered impossible, concerted action on behalf of the iwi or hapu with regards to the fairness of the price offered or even to the advisability of parting with the tribal lands at all; and (c) that the 'weaknesses and improvidence of the race [sic]' had been directly appealed to. In classic moralistic fashion, reminiscent of Stout's lectures throughout the sittings, the Commissioners argued (as they had already done in their early report covering the Whanganui district) 'that the sight of a Government cheque book and the prospect of a good time at the hotels or on the race-course were sufficient for the majority of owners in any Maori block to waive all consideration, and to put their signatures to the purchase deeds.'¹⁰³

The Commissioners were strong in their condemnation of the failure of existing legislation to provide for the control and prevention of the wasteful expenditure of land purchase-money.

'Under the present system no purchase can be effected if the Native [sic] owners were informed that the purchase money would not be paid directly to them, but would be held in trust by some responsible officer or body to be expended for the improvement of other lands belonging to the vendors or to be invested for their benefit.'¹⁰⁴

Stout and Ngata considered it vital that provision be made to prevent the proceeds of a sale from being squandered.

The Commission were also concerned that adequate provision be made to ensure Maori had enough land remaining in their hands after a purchase to survive from. That there was a danger of Maori, if unchecked, divesting themselves completely of their interests in land had long been recognised, but it was not until 1905 that the duty was cast upon the Governor to ascertain before the completion of a sale whether the Maori vendors had other land sufficient for their maintenance.¹⁰⁵ The Commission pointed out that it clearly remained the duty of the Government, not only to provide land to satisfy the needs of a growing population, but also to see that in the performance of that duty it did no injustice to the Maori people, to which the State had obligations and responsibilities under the Treaty of Waitangi.

The Government seemed more interested in the theoretical considerations of its Maori land policy, and less interested in the significance of that policy and how its

¹⁰³ AJHR 1907 G. - 1C p.8.

¹⁰⁴ Ibid.

¹⁰⁵ Although there was a duty in the Native Land Court quite a bit earlier, as is noted in the Waitangi Tribunal's Te Roroa report.

implementation had impacted on Maori. Thus the time had come, warned the Commission, for the State to consider not the theory on which its purchases of Maori land had been founded, but the practical results of a system which had persisted for more than half a century. 'It is our duty to point out that it would be difficult to defend the present system of land purchases,' concluded the Commissioners, who in the end had no compunction in recommending to the Government that the acquisition of Maori lands under the current system of Crown purchase be abandoned.¹⁰⁶

2. That 'alienation by direct negotiation between the [Maori] owners and private individuals be prohibited'.¹⁰⁷

Commissioners were thus recommending that private alienation by both sale and lease be forbidden. The train of thought which led them to this conclusion was principally concerned with the problems of would-be Pakeha lessees rather than those of Maori lessors. Stout and Ngata argued that free trade in leasing created by the *Maori Land Settlement Act 1905* was actually an illusion, as people with experience in dealing with Maori land tended to monopolise the market.¹⁰⁸ It is possible, the Commissioners noted:

'...for a...resourceful man [sic] who is *persona grata* with the Maoris, who knows where to look for the influence necessary to "round up" the scattered owners of a block and obtain their indispensable individual signatures...to negotiate successfully all the leases he may require, and even to set up a business as a medium for obtaining leases for the less fortunate, if *bona fide*, settlers not so well versed in the underground methods of dealing with Native [sic] lands...There is freedom of leasing to the man who knows, and unlimited scope for operating...'¹⁰⁹

Such individuals enjoyed a virtual monopoly on privately-negotiated leases and, it was claimed, were abusing this power to breach the spirit of the regulations limiting the area of Maori land which could be held by any one person.¹¹⁰ Although a maximum area had been set of acres that could be included in any one lease, such abuses led Stout and Ngata to raise the question whether there was anything to prevent a lessee taking up as much land as they liked in separate leases? The Commissioners believed that there ought there to be a limitation of Pakeha holdings of Maori land, with decisive legislation passed which would provide against subsequent aggregation of land through transfers

¹⁰⁶ AJHR 1907 G. - 1C., p.9., and also in Katene, 'Administration of Maori Land in the Aotea District', p.206.

¹⁰⁷ AJHR 1907 G. - 1C, p.16.

¹⁰⁸ Loveridge, *Maori Land Councils and Maori Land Boards*, p.83.

¹⁰⁹ AJHR 1907, G.-1C, pp.12-13. This section in the Commission's first 'General Report' quoted from, and was largely based upon pp.14-15 of the Whanganui Report (AJHR 1907, G.-1A), which gave specific examples of extensive acquisitions by particular families.

¹¹⁰ Loveridge, *Maori Land Councils and Maori Land Boards*, p.83. Meanwhile for those settlers who had not mastered the 'underground methods' of dealing in Maori lands, and thus missed out on obtaining some of the Maori lands they were so desperate for, their ignorance resulted in anger towards the Maori people, and they made Maori lands the 'butt of their indignant complaints.' (AJHR 1907, G.1C, p.13.) Large tracts of Maori lands were lying surplus - 'idle and unoccupied' - Pakeha complained. Maori they believed, should be forced to stand on their own two feet and alienate the land so as to give all Pakeha a fair shot at settling the lands.

or subleases.¹¹¹ This is an interesting point, and shows some creative thinking by the Commissioners, anathema to the Pakeha assumptions of the time.

In order to make Maori lands accessible to a wider range of would-be purchasers or lessees, and to limit such abuses, Stout and Ngata recommended that: 'the only fair thing, in our opinion, both to the Maori owners and to all would-be purchasers or lessees, is that they should be put on an equality, and this can only be attained by allowing the highest bidder to become the purchaser or lessee, but limiting the persons who can become competitors according to the extent of their land-holdings at the time of sale...' All sales and leases of Maori land were thus to be made at public auction, with limits being imposed on persons according to the extent of their land holdings at the time of purchase.

This was an important feature which Stout had suggested to Maori owners more than once during sittings, and an idea which they had readily adopted if prepared to lease their lands. Lease by public auction also became a 'routine' requirement for lands recommended for lease by the Commission, throughout the rest of their interim reports, as Stout and Ngata attempted to guarantee that the acres of Maori land they were opening up for lease would be dealt with fairly. In endorsing the lease of Maori land by public auction, Stout and Ngata not only wanted to make the land available to all, but wanted to ensure that Maori owners correctly received market-value rentals for their land.

However, the Commissioners believed that no such scheme as indicated above was possible unless at auction, the title was guaranteed to the highest bidders. 'And here', commented Stout and Ngata, 'the nature of Native title places insuperable difficulties in the way. You cannot control the wishes of numerous individual owners, each of whom is given the right to dispose of their interests as they think best.'¹¹² In recognition of this position, legislative schemes had been developed, that were based upon the principle of consolidating the ascertained interests of individual members of a whanau, hapu or iwi, so as to ensure to a purchaser or lessee that a title could be secured, and at little expense. Stout and Ngata categorised the schemes under four headings, and went on to describe them.

The first was the administration of Maori land by the Public Trustee. However, in the Commissioners' opinions, the concentration of control in a Government department not in close touch with the Maori beneficiaries and their needs, and whose duty was primarily to secure revenue from the estates, was not always in the best interests of Maori, and was considered distasteful by the people.

The second scheme was the system of Incorporation of the owners of a block or adjoining block, and the appointment of a management committee with power to sell, lease, or mortgage the land. 'This system rests on the good-will of the owners', wrote Stout and Ngata, and 'the procedure entails expense in the obtaining of signatures'. This scheme was considered by the Commissioners as capable of improvement, but would be found useful in the case of communal

¹¹¹ AJHR 1907 G. - 1C p.12.

¹¹² Ibid., p.13.

lands intended to be farmed by the owners. The third scheme involved the appointment of trustees approved by the Governor. However, very little land had been conveyed to trustees in this manner, and the system was described by Stout and Ngata, as 'practically a dead-letter.'¹¹³

The last of these schemes involved the administration of Maori interests by Land Boards, constituted under the *Maori Land Administration Act 1900*, and amendments, and reconstructed under the *Maori Land Settlement Act 1905*. Stout and Ngata noted that the tendency of Government between 1900 and 1906 was in the direction of compulsorily vesting lands in these Boards for administration. They were of the opinion 'that these Boards must [therefore] be used much more freely and on a greater scale in future if large areas of unoccupied Maori lands [were] to be opened to settlement.'¹¹⁴ The Commissioners recognised the impossibility of comprehensively securing the partition and individualisation of all Maori land, and maintained that the current method of partition and individualisation was inadequate. The Commission therefore recommended the intervention of a body, such as the Maori Land Board, to be armed with powers sufficiently elastic to meet the difficulties.

Consequently, the third major recommendation proposed by the Commissioners in their first General Report was:

3. That all further alienations be channelled through the Maori Land Boards, taking place 'only through the Board as agent for the owners, or, in the case of lands vested in it, as registered owners of such lands.'¹¹⁵

This recommendation allowed for the Maori Land Boards to be given exclusive power to administer the alienation of Maori lands. Stout and Ngata believed that any dealing in Maori land, as well as its administration and management should be centralised under the control of one major body. They selected the Maori Land Boards for this role, assuming that their 'established' methods of consolidating Maori interests would be preferable to the other options, which included Government-appointed trustees, or committees of various Maori owners.

To ensure the Boards maintained a required standard of efficiency and competence, Stout and Ngata agreed that the constitution of the Boards and their staff should remain as is, however they suggested that the Presidents be drawn from people experienced in the cutting-up and letting of lands, and should be Government officers paid by the Government.¹¹⁶ In that way they would have a higher power to whom they were ultimately responsible. Stout and Ngata proposed that wider powers be given to the Land Boards to assist Maori owners. Following this recommendation, the Commissioners set out a list of powers, which they believed should be granted to the Boards. Some of the principal powers were as follows: ¹¹⁷

¹¹³ Ibid., p.14.

¹¹⁴ Ibid.

¹¹⁵ Ibid., p.17.

¹¹⁶ See Recommendation 7, *AJHR 1907 G. - 1C* p.18. Each Board was also to have a competent accountant as Clerk and Receiver.

¹¹⁷ See the complete list of recommendations as to the Powers of the Boards, *AJHR 1907 G. - 1C* pp.17-19. The above list is only a summary of the principal powers of the Board as suggested by Stout and Ngata, in order to

The Board:

- (a) May sell land or part thereof-
 - i. if the owners so desire
 - ii. in order to raise money for the purpose of...surveying...or discharging liens
 - iii. in order to raise money to enable owners to farm,
- (b) May lease [Maori land], and may set aside, out of areas to be leased to the general public, sections to be leased to Maori other than the owners,

NB: All sales and leases to be by public auction to the highest bidder. No person may acquire land, either by purchase or lease, if unimproved value thereof, together with unimproved value of land they already own of hole under any tenure, exceeds £3,000. Declaration necessary.

- (c) May borrow money on the security of land or revenue, for purposes indicated in clauses (a)ii and iii,
- (d) May make reserves for burial-places and the like.

As to lands set apart for Maori settlement, occupation and farming, the Powers of the Board should include:

- (a) Reserve burial-places, and set aside kainga/village sites,
- (b) Set aside papakainga for individuals, families or hapu,
- (c) Set aside blocks or parts of blocks as communal farms under the management of competent farmers, and to form the nucleus of farming communities,
- (d) Grant leases to Maori tenants specified by the owners for such terms as it may think fit, or issue certificates of partnership to members of families wishing to farm their own subdivisions, or declare the owners of any land incorporated, in order that the land may be farmed under a committee elected by the owners,
- (e) Raise money on security of land for purpose of advancing to Maori owners who elected to farm.

Finally, yet most importantly in the Commissioner's first 'General Report', paramount consideration was to be given to the Maori owners themselves, and the settlement of Maori on the remaining Maori lands was seen to be a priority. According to Stout and Ngata's analysis, apart from the bewilderment produced by conflicts of policy, previous Maori land legislation had had a twofold effect: threatened with compulsory seizure and practical confiscation, Maori had been forced to contemplate the possibility of utilising their lands in the Pakeha way, actuated by examples of newly-settled farmers in their midst; whilst the difficulties inherent in individual ownership had also revealed themselves, in a society which was unwilling to lend aid and support to new Maori farmers. Thus individual ownership seemingly prohibited communal effort but the lack of finance and understanding also prevented individual action.

Faced with great pressure from Pakeha settlers who wanted to obtain possession of the large tracts of Maori land which were lying 'unused', Maori, wrote the Commission, 'had found themselves in a most difficult and critical position.'¹¹⁸

get a feeling as to the complete and central role the Commissioners envisioned be played by the Maori Land Boards in the administration of Maori lands.

¹¹⁸ AJHR 1907 G. - 1C p.14.

Interestingly, many of these comments in the Commission's General Report, regarding the situation Maori in which found themselves backed into a corner, where they could neither farm their lands due to lack of finance and education, yet were faced with the brutal demands of Pakeha settlers for their land, mirror closely the concerns voiced by Maori during the sittings. It would thus appear that the Commissioners had listened closely to the fears of Maori, and in respect of their grievances had represented the thoughts of Maori in their first General Report. Hence troubled by, and in support of, Maori concerns, the Commissioners believed that the position of the Maori people deserved careful and immediate consideration. Consequently, their fourth and final recommendation of the General Report was that:

4. Maori be encouraged and trained through education and finance to become 'industrious settlers'.

Stout and Ngata remarked that the legislature had always stopped short when it had outlined a scheme or method of acquiring Maori lands, and the necessity of assisting the Maori to settle and farm their own lands was never properly recognised in earlier legislation and policy. Instead

'...it was assumed that because [the Maori] was the owner according to custom and usage, and because the law had affirmed [their] right of ownership, they were at once in a position to use the land. Maori were expected to do so, and to bear the burdens and responsibilities incident to the ownership of land. Because they had failed to fulfil [Pakeha] expectations and to bear their proportion of local and general taxation [Maori were] not deemed worthy to own any land except the vague undefined area that should be reserved for their "use and occupation"... [Maori] energy is dissipated in the Land Court in a protracted struggle, first, to establish their own right to it, and, secondly, to detach themselves from the numerous other owners to whom they are genealogically bound in the title. And when they have succeeded they are handicapped by want of capital...[and] by lack of training...be they ever so ambitious and capable of using their land...' ¹¹⁹

Maori, the Commission considered, could not be expected to equal a people who had been farming for thousands of years, therefore they recommended strongly, that steps would have to be taken to provide for Maori education to assist them to become 'industrious settlers'. Two things, in Stout and Ngata's opinion, needed to be done. First, the primary education of Maori needed to have an 'agricultural bias'. Such Training schools should be funded by Government, which all Maori children could attend and develop their agricultural and horticultural knowledge; schools whereby Maori might be encouraged and taught to become practical farmers, and to direct their energies towards the cultivation of their own lands.¹²⁰ As if to justify this

¹¹⁹ Ibid., p.15.

¹²⁰ Ibid., p.21. Later Government policy on Maori education reflected this idea, but stopped there. Government did the bare minimum for Maori education, and tended to get stuck on the idea of only agricultural, primary education for Maori. Secondary academic education for Maori was never an option considered by the Government, and although they took off the top few Maori students and placed them in schools such as Te Aute, High Schools were never built for Maori. Indeed the Education Department itself made limited provisions for post-primary education for Maori, and only practical instruction in agriculture and general farm work was provided, because it was generally assumed by Pakeha that the correct place of Maori in the economic strata of this country was on the land. However, owing to the rapid increase in the Maori population, for many people there was no longer a place on the land, and what were they to do?, for the Government had trained them for

recommendation, the Commissioners added to the report that from what they had witnessed, the Maori were certainly intellectually capable, and 'where opportunities had been given [them] to obtain higher education, they had acquitted themselves well.'¹²¹

Secondly, Ngata and Stout believed that the guidance and leadership should be provided by the State, in the form of agricultural instructors who would visit Maori throughout the various districts and advise the people as to the management of their farms, the soil and the rearing of stock. 'We think that this is a very pressing matter', concluded the Commissioners, 'and the Government should undertake at once to elaborate some scheme which would provide for the efficient teaching of Maoris [sic] in agricultural matters.'¹²² Stout and Ngata also suggested that the establishment of communal farms under the general supervision of the Maori Land Boards in matters of title and finance, and under the management of competent managers (as suggested by the Commissioners in their earlier report covering certain blocks in the Whanganui District) would provide the necessary impetus and organised practical instruction. In setting aside communal farms, Stout and Ngata hoped that this would not only form the nucleus of farming communities, but at the same time would provide familiar social conditions for Maori.

Although they expected some failures, Stout and Ngata were also expecting many successes, for they urged that if Maori were to survive they must be taught to be 'industrious', and to become efficient and scientific farmers.¹²³

This, if any, is the one defining recommendation to emerge from the Stout-Ngata Commission, and in many respects this emphasis on the importance of encouraging and training Maori to settle their own lands efficiently, is the most significant feature of the Commission's reports. Not only was it a common feature of Stout's handling of the sittings, but it was woven throughout all of the Commission's forty-two reports. Both Stout and Ngata realised that they alone would be unable to alter the course of Maori land legislation, and they chose instead to advance the practical and perhaps more realistic suggestion that the Government should aid Maori in their quest to work their own lands. It was a simple and obvious idea, yet one which had never been addressed by Government before. Its implementation would have required little effort on the part of Government, and could have perhaps led to the rise of a healthy rural Maori economy, beneficial to both Maori and the nation. In submitting this recommendation, Stout and Ngata were obviously considering the welfare of the Maori people, but was the Government? Were the Pakeha settlers thinking of little else but their own futures and well-being?

Thus in a swing away from the Government policy which was analysed in the first General Report, this last proposal of the Commission, in particular, can be seen as

little else. (D.G. Ball, 'Maori Education', in I.L.G. Sutherland, ed, The Maori People Today: a General Survey, Wellington, 1940, pp.295-303.)

¹²¹ *AJHR* 1907 G. - 1C p.14.

¹²² *Ibid.*, p.22.

¹²³ *Ibid.*, Make no mistake however, for Stout and Ngata were under no illusion that all Maori would be successful. On the contrary, they expected that not all Maori put upon the land would be successful. All Pakeha are not successful, they retorted, and due to Maori inexperience they were thus naturally expecting failures among the Maori.

sympathetic to the Maori concerns raised during sittings. Retaining that attitude, at the conclusion of their review, Stout and Ngata then outlined the priorities which they intended to apply when making recommendations concerning the disposition of Maori lands. These were, in summary:

1. The settlement of Maori on their remaining lands should be the first consideration;
2. In the leasing of the surplus lands, provision should be made for the future occupation by the descendants and successors of the present owners; and
3. While some of the surplus Maori land should be sold, the purposes of any such sale should be clearly defined.¹²⁴

With respect to the last, the Commissioners commented that:

'...the area of good land available for disposition in this manner, having regard to the present necessities of the Maori people...and the needs of their descendants, is not as great as is generally supposed. Of inferior land not suitable for close settlement, and fit only for forest reserves and such purposes, there is ample, but we doubt if there will be any keen demand for such land. Where we have recommended areas for sale, we have done so at the request of owners...'¹²⁵

In general then, the Commission's first General Report recognised the need for opening up some Maori land in order to meet Pakeha demands, but it laid great emphasis upon Maori needs. In his description of the Commission's first General Report, Loveridge notes that given such statements, 'Maori could expect fairly rational recommendations from Stout and Ngata, which were not likely to include permanent alienations on a large scale. They could not unfortunately, expect a comparable level of rationality from Parliament...'¹²⁶

THE INTERIM REPORTS - THEMES AND ISSUES

With regards to the remaining interim reports, the major themes which recurred in them mirrored those which had featured during the sittings, and included issues which had been raised by both Maori owners and by Stout and Ngata during them. The themes expanded on below include the need for agricultural education which had already been discussed in the first General Report, and which becomes the enduring recommendation of the Stout-Ngata Commission. The need for finance and education was a concern raised by the Commission early on in their proceedings, and continued

¹²⁴ Loveridge, *Maori Land Councils and Maori Land Boards*, p.69. In splendid 'Stout style', besides from calling for education for Maori, the Chairman of the Commission also managed to include in the final paragraphs of the First General Report, that which characterised his style throughout the sittings - the issue of Maori alcoholism and 'thriftlessness'. True to his florid rhetoric which had so entertained the media during sittings, Stout warned that the consumption of alcohol which had caused such great havoc amongst the Maori people, was an 'evil that must be combated.' Accompanied by thriftlessness, Stout stated that money was wasted in ways that tend to the 'physical, moral, and intellectual deterioration' of Maori; and the sale of land by Maori was not only in many instances leaving them landless, but killing them. (AJHR 1907, G.-1C, p.22.)

¹²⁵ AJHR 1907, G.-1C, pp.15-16.

¹²⁶ Loveridge, *Maori Land Councils and Maori Land Boards*, p.70. A direct copy of portions of the Commission's first 'General Report' was also reprinted in *The Evening Post*, 27 July 1907. In the weeks after, the Evening Post continued to look closely at specific sections of the report, and to discuss the Commissioners' opinions and recommendations.

to be discussed not only in the first General Report, but throughout most of the interim reports, and again in the concluding comments of their final General Report.

Other themes to be discussed by the Commission included the issue of land alienation, in which the Commission developed ideas designed to protect Maori welfare and ownership of their land. Having witnessed first hand the landlessness and desperation of iwi such as Ngati Whakaue and the Maori of Whakatohea, the Commissioners became firm supporters of preventing further Crown purchases of Maori land. Furthermore, after their 'enlightening' travels through Waiapu and the Maori stations on the East Coast, Stout in particular was more than convinced that under the system of incorporation, large blocks of Maori land could be brought under profitable utilisation by Maori themselves. This still opened the way for land for general settlement, with the excess Maori land to be leased through the central administration of Maori Land Boards. From ideas developed by their observations of inadequate trustees and receivers, the Commission recommended that the role of Land Boards be centralised, clarified, and given greater powers. Stout also emphasised that the method of leasing be made fair and equitable to all, primarily through a system of lease by public auction and the obtaining of market value for rentals. The Commission's reports also uncovered some interesting statistics relating to how much Maori land was already under lease.

Some reports also included a discussion of the timber market in general, and various timber agreements which they had been investigating throughout their travels. This culminated in a special report being released with regard to the Tongariro Timber Company, and an agreement it had with Ngati Tuwharetoa, and wished validated by the Commission. A special report (which has since become the best known of all the Commission reports) was also written by Stout and Ngata relating to the Orakei Native Reserve. In this report, they extended their brief to investigate an case which had been troubling the Government, and was the cause of much grievance for the local Ngati Whatua iwi.

With few exceptions, it may be said that the recommendations made in the various reports herein summarised were in accordance with the wishes of the Maori owners of the respective blocks, as ascertained by the Commission during its series of sittings, and were very much sympathetic to the Maori viewpoint, and the difficulties facing Maori people.

The most memorable of the interim reports was undoubtedly AJHR 1908, G.-1F (mentioned above), in which the Commission not only attacked the provisions of the *Native Land Settlement Act 1907*, but also slammed the unequal treatment Maori landowners had received at the hands of the Government. In this special report, Stout and Ngata also developed their own ideas as to the future duty of Government, and returned again to their crusade for aid and education. In broad sweeping statements, which were nevertheless thought-provoking, Stout and Ngata declared that the country had a duty to Maori. The people were to be given time to learn farming according to Pakeha methods, and agricultural instructors and guides were to be appointed to train them. Only if Maori failed after means had been provided to teach

them, did the Commission believe that it would be time enough to 'cavil at their unused lands.'¹²⁷

In a florid style which used stereotypical adjectives of the day, the Commission enthused that there were promising signs that the Maori would prove themselves industrious settlers, and become 'valiant, trustworthy, and zealous citizens'! Conversely, Stout and Ngata feared that to do nothing for the Maori, except the seizure of their lands because they were not such 'active settlers' as the Pakeha, would mean the destruction of the Maori people. The Commissioners were adamant that this must not happen, and in their opinion,

'...the people of New Zealand must be both just and magnanimous to the Maori, if we do not wish to sow the seeds of injustice and selfishness amongst the Pakeha population...'¹²⁸

The desire to advance Maori was thus carried through many of the Commission's reports, and their primary concern for the well-being of the Maori people focused on the need to encourage and train Maori to be farmers. This one theme continued throughout all of their reports, as it had largely done throughout the sittings.

Stout and Ngata were fond of the phrase, 'If you don't use it, then you'll lose it,' and often warned Maori that if they did not begin to work their lands then they would be taken by a Government for Pakeha settlers. However, the Commissioners, particularly Ngata, did not want to see this happen, and thus encouraged Maori to begin farming. There also seemed to be a direct correlation between the desires of Maori to farm (as expressed to the Commissioners), and the subsequent recommendations which promoted the idea of Maori farming their own land.

During the Commission's sittings at Masterton, Stout and Ngata learned that there was very little farming among Maori in the Wairarapa district. Most of the young people were working for Pakeha, and the older ones seemed to be depending largely on rents for their livelihood. There was, however, 'a laudable desire manifested' among Maori to begin farming on a proper basis, and to assist them in achieving this, the owners asked the Commission that the small remnant of lands left unalienated be reserved to them for Maori occupation. In response, the Commissioners recommended in the relevant report (AJHR 1908, G.-1R) that as these people had not been engaged in farming for themselves, they required the guidance and instruction of experts in order to be successful. 'We therefore urge', concluded the Commissioners, 'the necessity of appointing instructors for the several districts [not only the Wairarapa] in which Maori were farming...in a few districts the Maori are capable farmers...but where they are experimenting it is absolutely necessary that such guidance should be afforded to them.'¹²⁹

In their report on the Hobson County, the Commission also referred to the need for finance and education. In this district which was included in the Tokerau Maori Land District, much of the land belonged to the Ngati Whatua. The Commissioners

¹²⁷ AJHR 1908, G.-1F, p.4.

¹²⁸ Ibid.

¹²⁹ 'Interim Report of Native Land Commission on Maori Lands in the Wairarapa District', AJHR 1908, G.-1R, p.1.

described them as 'once a numerous and powerful people, but now much reduced in numbers, and living in scattered kainga.' There were many Maori with very little land in the Hobson County, who were termed by Stout and Ngata as 'landless'. It was stated during sittings that Maori in this district had turned their attention more to farming, and away from rapidly dwindling kauri and gum industry. 'The time seems opportune', commented the Commissioners in their interim report, 'for fostering and directing these attempts to lead a more industrial life; there is the need for the proper adjustment of titles to secure a sufficient guarantee of title for lending institutions... and above all, there is the need for proper instruction and direction,' in order to divert Maori to the difficult task of cultivating their own lands with the incentive of a 'hard-won and long-deferred prosperity.'¹³⁰

In the Piako County, where the Commission had had difficulty dealing with the owners of the land who were united under the leadership of Tupu Taingakawa, Stout and Ngata accordingly noted in their report (AJHR 1909, G.-1) that a considerable area of the land the people held was not being 'used', and it was only after gentle persuasion from the Commissioners, that they had taken to any extensive farming. However, by the final quarter of 1908 there seemed to be aroused among Taingakawa's people a spirit of enthusiasm for farming operations, and areas had been cleared and made ready for sheep and dairy farming. However, throughout the Waikato, the Commissioners were impressed with the necessity of agricultural instructors being sent to the hapu in order to aid them in becoming 'efficient farmers'. Displaying an air of irritation because their early recommendations with regards to the appointment of agricultural instructors had so far been ignored by the Government, the Commissioners stated that:

'We have in various reports brought this matter before [the Government]...but as yet we have not heard of any instructors being appointed. It is in our opinion, vain to expect that the Maoris [sic] can become efficient settlers if they do not receive agricultural instruction and guidance. Large sums of money are being spent to educate and direct Pakeha farmers in their farming operations: there is much less need of such expenditure being incurred than of taking steps to train the Maoris to become industrial and agricultural settlers.'¹³¹

In this example, Stout and Ngata also raise the issue of double standards and the differing treatment of Maori and Pakeha by the Government, which they had previously accused the Government of with regard to Section 11 of the *Native Land Settlement Act 1907*. The Commissioners thus showed through their reports that they were not afraid to be forthright and brutally honest, and to "call the situation as they saw it".

In emphasising the need for Maori to be able to farm, Stout and Ngata considered that it was a matter of saving the 'race' from decline. While the Liberals had placed much emphasis on intensive farming by Pakeha to make the land productive, no such attempt was made to help Maori become "useful" settlers, or to encourage them to be small farmers. The Pakeha consensus was that Maori were not capable of achieving this objective and that only by embracing individualism and a Pakeha 'way of life'

¹³⁰ AJHR 1908, G.-1G., p.1.

¹³¹ AJHR 1909, G.-1, p.2.

would Maori succeed. However, the Commission believed that it was time for the state to make such an endeavour.

In what seems an attempt to convince their Government audience of Maori capabilities, the Commissioners praised both the physical and intellectual nature of Maori they had met. 'We have been amazed, in meeting some of the chiefs who have appeared before us, at their intellectual vigour', enthused the Commissioners in their first 'General Report'. The Commissioners were obviously conscious of the racist attitudes of the time, hence their constant references to Maori being 'just as good as Pakeha' which implicitly acknowledged the prejudice that Maori could never be 'as good'.¹³² Perhaps surprised at their own findings, the Commissioners also highlighted the progress of Maori, for example in the Rotorua region, where the Commissioners saw people working as gardeners, labourers, and mechanics, doing work 'as well as Pakeha'. Furthermore, on the East Coast, the Commissioners witnessed Maori communities 'just as well-behaved and industrious as Pakeha settlers.'¹³³

In particular it was this example set by Maori farmers on the East Coast which helped Stout and Ngata prove the Pakeha consensus wrong. The Commissioners had spent a good deal of time in Waiapu, being shown around the successful Maori stations and incorporated farms, and it was this district which seemed to impress them the most as to the ability of Maori to become sheep-farmers and graziers.¹³⁴ (Remembering however, that one of the farms belonged to Ngata himself!) Therefore it came as no surprise that in their report covering Maori lands in the Waiapu County, their recommendations closely followed the opinions which they had developed during their travels to the East Coast. Overall, the Commissioners praised the way in which Ngati Porou were utilising their lands. The Commissioners were particularly delighted with the capital and stock which the people had acquired, and the schedules to the report show that not only had Maori cleared and grassed 57,000 acres, but they also owned 83,000 sheep, 3,200 head of cattle, 8,200 pigs and fourteen woolsheds, 'as well kept as any kept by [Pakeha] sheep-farmers throughout the Dominion'!¹³⁵

In judging the land question in this district, Stout and Ngata took all these facts into consideration, and concluded that the success of Ngati Porou warranted 'their looking forward with hope to further development of the sheep-farming industry.' While on the East Coast, the Commissioners had witnessed first hand the successes of Maori farming; the land was being profitably utilised, rates were being paid, and overall the

¹³² Ballara addresses this issue of contemporary racist attitudes, and writes that at the turn of the century, 'Anglo-Saxons' in New Zealand did not question their assumption that there was a race born to rule, and that the Maori belonged to a race which was bound to require that rule. Their conception of their role as British imperial administrators induced in Pakeha at best a sense of protective responsibility [which Stout seems particularly to have undertaken] towards a vulnerable minority group, and at worst an attitude of superior patronage which would not allow that Maori had any ability to handle their own affairs. The results of these attitudes were reflected in much legislation affecting the administration of Maori affairs and property in which paternalistic control was imposed on the economic choices of Maori. (Ballara, *Proud to be White?*, p.111.) It was this assumption which produced the argument that it was Maori's 'dark-skinned thousand-year-old inherited incapability which rendered them 'incapable of advancement'! (p.78.) What logic!

¹³³ *AJHR* 1907 G.-1C, p.14.

¹³⁴ Refer back to the case-study of the East Coast in Chapter Five.

¹³⁵ 'Interim Report of Native Land Commission on Native Lands in the Waiapu County', *AJHR* 1908, G.-i., p.2.

Pakeha in the district were happy with the progress of their Maori neighbours. The Commissioners thus concluded from that trip that there was no need to remove the land from Maori control as they were currently doing exactly what the Government was demanding of all Maori - 'profitably utilising' their land.

Consequently, very few lands were recommended by the Commission for general settlement in their schedule's attached to the reports. The area of Waiapu County was 705,228 acres, of which after sales to both the Crown and various Pakeha, Maori still owned roughly 380,000 acres and had leased 113,025 to Pakeha. Most of the remaining land (66,239 acres) was to be kept so that Maori could continue farming their lands, and only 3,037 acres were recommended for general settlement in Waiapu.¹³⁶ Similarly in the Cook County, no land at all was recommended for general settlement, and 30,129 acres was to remain in Maori occupation.

The East Coast example had also 'proven' that Maori were able to farm as well as any Pakeha, and because of this Stout and Ngata were encouraged to urge throughout their reports that Maori 'everywhere' take up farming, and begin to 'profitably utilise' their lands. The Commissioners believed that if Maori farming were to be sponsored by the State, the idea would take off and Maori land throughout the North Island would be successfully settled by Maori themselves as had been done on the East Coast.

In particular, it was the system of incorporation which had been adopted by Ngati Porou which was the focus of the East Coast reports, in which the Commissioners noted the success of a number of incorporations which they had witnessed there. The report covering the Waiapu County (AJHR 1908, G.-i) noted that a feature of these lands was the congestion of the titles where the bulk of the people held small individual interests in many blocks. The result was that the district could not be 'conveniently individualised', and the only chance of the land being worked was by co-operation amongst the owners. Realising this, Maori thus asked the Commission, in almost all the cases where their lands were to be held for Maori occupation, that they be worked under the incorporated system; whereby the various blocks and subdivisions were managed by committees who supervised the general direction and of farming operations.¹³⁷

This system had had a trial, and during their time on the East Coast, Stout and Ngata had visited the Reporua Co-operative farm near Awanui; a pioneering Maori station which had been successfully operated under incorporation and committee management since 1889.¹³⁸ The Commissioners observed in their report that this group of blocks had been 'properly and securely fenced', and it had suitable farm buildings for the working of the property which equalled any similar constructions on Pakeha farms. Likewise, the stock was also reputed to be equal to those on lands

¹³⁶ AJHR 1908, G.-i., p.1. Stout and Ngata also commented in the report (p.3.) that there were roughly 900 Pakeha in the district holding an area of 450,000 acres, or an average of 500 acres per head of the Pakeha population. 'This is a far larger area per head than the Maori hold', they said, 'even if their papatipu lands are included.' The implication being: why should any more land be opened up for Pakeha settlement, when they already had so much land, and Maori who were so eager and able to farm, had so little.

¹³⁷ AJHR 1908, G.-i., p.3.

¹³⁸ Refer to East Coast case-study in Chapter Five which discusses the Commission's visit to this region.

farmed by Pakeha, the management was of a high level, and labour had been supplied by the owners and their families.¹³⁹

The Commissioners were similarly impressed with other successful Maori incorporations on the East Coast, and in commenting on the Ngaitai iwi from Torere, Stout and Ngata stated that the people were to be complimented on their management of their 'business'. Having adopted the system of incorporation, the people had sold or leased portions of their tribal estate, and in doing so had discharged all debt on their lands, made a large area of land available for general settlement, yet still maintained plenty for their own purposes. 'There is no better example of the success of the incorporation system...[where] capable persons representing hapu or tribes have become accustomed to working harmoniously together, and have sunk personal differences for the common good', wrote the Commissioners enthusiastically.¹⁴⁰

Stout and Ngata continued to promote incorporation throughout three East Coast reports, and one covering the Opotiki County,¹⁴¹ and believed that such a system would overcome the difficulties of title which rendered capital loans for development so difficult to obtain. Therefore they recommended that Maori lands in the region should be incorporated, with committees appointed to farm the land for all of the owners and raise necessary money for capital and stock. Stout and Ngata believed that incorporation would hasten settlement because it concentrated the power of disposal into the hands of committees, which would also maintain the communal nature of Maori custom. The Waiapu report maintained that Maori were a 'communal people', and concluded that:

'...this system, [of incorporation] which preserves a community of interests, but also allows and rewards individual exertion, may be the best means of creating a better industrial life amongst a communal people.'¹⁴²

By the method of incorporation, the Commissioners also knew that Maori land would not lie 'idle'.

Another worthwhile suggestion from Ngata to overcome the difficulties of title and the related expenses, and the inability to farm small multiple land holdings, was the policy of consolidation, whereby various small interests owned by individual Maori could be exchanged so as to form larger areas, more economic for farming. For example, in the Whanganui District, Ngata believed that there were a few Maori districts where the consolidation of interests could have been carried out, by wholesale exchanges between individuals and families, lessening the costs from Court subdivisions and surveys. Throughout his career as well as during the Commission period, Ngata regularly promoted this idea of consolidating Maori lands, as long as the system of exchange was kept simple and effective. (Such provisions were later incorporated in the *Native Land Act 1909*.)

¹³⁹ AJHR 1908, G.-i., p.3.

¹⁴⁰ Report covering Maori land in the Opotiki County, AJHR 1908, G.-1M, p.2.

¹⁴¹ These reports covered: the Waiapu County, AJHR 1908, G.-i; the Opotiki County, G.-1M; a later clarification report of land in the Cook County, AJHR 1909, G.-1E; and a summary report which included the Counties of Cook, Waiapu and Opotiki, AJHR 1908, G.-iii.

¹⁴² AJHR 1908, G.-i, p.3.

Having noted the success of the incorporation system in facilitating the administration of Maori lands, the East Coast reports also briefly discussed the leasing of lands by incorporations. This system had simplified the process of leasing for potential lessees, who found that instead of dealing with numerous and scattered owners, they could conduct business with a 'compact' committee of three to seven owners who had the power to give lessees a valid title.¹⁴³ However, Stout and Ngata emphasised that if this system were to be made more satisfactory to the general public, the committees of incorporated blocks should be compelled to put up their leases for public auction. Presently, committees were bound to specify intending lessees, and this did not give members of the general public a fair chance at bidding for the land. The Commission recommended that:

'If...the committees were required [by law] to sell the leases by auction, this system of alienation would be an excellent one. It is expeditious; it is growing in popularity with the Maori; it secures to negotiators a guarantee of title and the minimum of expense in conducting negotiations...'¹⁴⁴

Having endorsed the system of leasing by public auction during sittings, this recommendation that leases must be arranged by public auction emerged as another important theme to feature throughout the various interim reports of the Commission. Public auction, the Commission believed, would assure Maori of obtaining market value for their lands, preventing under-valuation as had been prevalent during the purchases of Maori land by the Crown, and would ensure fairness in that the land would go to the highest bidder and not necessarily to a pre-determined Government favourite. Stout in particular was well-known for his attention to ensuring fairness, and both Commissioners were very much of the opinion that no system save open competition for Maori land, should be recognised. Their attitude is nicely summed up in the interim report covering lands in the Wairarapa District:

'The system of granting leases to favoured Europeans [sic] without public competition is most unfair not only to the Maori successors, but to the general public. In our opinion there should be no leasing of Maori land unless by public competition at auction...'¹⁴⁵

Another recommendation reiterated by the Commissioners in their interim reports - which they had also emphasised in the first General Report - was the idea of expanding and increasing the role played by the District Maori Land Boards in the administration of Maori lands. In support of the recommendation which they had made in their first General Report, Stout and Ngata continued to praise and attempt to raise the profile of the work done by the Land Boards, and recommended that all selling and leasing was in future to be arranged by the Maori Land Board of each district.

To this end, in a summary report which covered the counties of Waiaapu, Cook, and Opotiki, (AJHR 1908, G.-iii) the Commissioners made a few comments on the East Coast Trust lands and also the Whangara and Mangatu blocks, which were all the

¹⁴³ 'Interim report of Native Land Commission on Native Land in the Counties of Cook, Waiaapu, Wairoa and Opotiki', AJHR 1908, G.-iii, p.4.

¹⁴⁴ Ibid.

¹⁴⁵ AJHR 1908, G.-1R, p.1.

subject of a case-study in the previous chapter. These estates were under administration by various commissioners, receivers, and trustees, and in Stout and Ngata's opinion, the time had arrived 'when these lands should be administered by one body'.¹⁴⁶ There would be a great saving in the cost of administration, they added, which would reduce the steep fees, salaries and office expenses that trust beneficiaries had been required to pay to their trustees and receivers, and which had been the cause of much concern by the people.

The Commissioners suggested that the administration of the East Coast lands be centralised under one Maori Land Board, which would take over the various functions of: managing lands reserved for Maori occupation; administering the lease and sale of lands available for settlement; and the collecting and disbursing of rents. The Commissioners assumed that it would not be difficult to combine the estates under one Board. They believed that the handling of leases by the Land Boards and the East Coast Trust Lands Commissioner was similar, while the power of sale vested in the Trust Lands Commissioner could also be exercised by the Board. As to the financial matters relating to the Whangara and Mangatu blocks, the Commissioners felt that these could also be managed by the Land Board. However, in order that the Board would properly administer the consolidated estates, they suggested that a competent accountant and receiver be appointed to it.¹⁴⁷

In a subsequent report released in December 1908 (AJHR 1909, G.-1E), Stout and Ngata considered the two petitions which had been presented to them by the beneficiaries of the Mangatu and Whangara blocks. Mangatu, as explained in Chapter Five, had been managed by trustees; namely the Commissioner of Crown Lands for Hawkes Bay, Henry Cheetham Jackson, and Wi Pere. In the petition, the beneficiaries claimed that they had derived no benefit from this trust, and 'were strongly of the opinion' that they would have been much better off if they had been allowed to deal with their land themselves.¹⁴⁸ The petitioners then requested that the whole of the Mangatu block be placed in the hands of either the East Coast Trust Lands Commissioner or of the Tairāwhiti Maori Land Board.

Having conferred after an investigation which extended over two days, Stout and Ngata concluded that they were more 'strongly of the opinion' that the recommendation made in the earlier report (AJHR 1908, G.-iii as discussed above), should be given effect to; namely, that the administration of all the East Coast lands should be streamlined. As to the Whangara block which had been administered by Henry Jackson, the Commissioners decided that despite the fact that Jackson's accounts were not clearly stated, his salary and office administration expenses were excessive, and that he had set rentals on leased lands that were too low, so far as they

¹⁴⁶ AJHR 1908, G.-iii, p.5. Stout and Ngata were only able to make general recommendations with regards to the trust lands, because as we are reminded in this report, the lands comprising the East Coast Trust Lands were excluded from the operation of the Native Land Settlement Act 1907. Therefore, when Maori who owned blocks within the trust lands came to the Commission with suggestions as to what they wanted done with their lands, Stout and Ngata reported that such matters were for the consideration of the East Coast Trust Lands Commissioner. Thus, no specific recommendations as to the future use of various blocks within the Trust lands were made by the Commission.

¹⁴⁷ Ibid., pp.5-6.

¹⁴⁸ Refer back to East Coast case-study, and discussion of the Whangara and Mangatu petitions in Chapter Five.

could see, the Receiver seemed to have acted properly in his duties.¹⁴⁹ However, they did repeat their recommendation, and stated that:

'The very fact that this state of circumstances exists shows that the control of the land should be in some corporation such as the Tairāwhiti Māori Land Board, and not in the hands of a mere receiver.'¹⁵⁰

As to the rest of the lands in the Cook County outside of the trusts, yet still in Māori possession, the Commissioners noted that farming by the people in this county was not carried out on the same scale and 'with the same heart' as in the Waiapu County. 'It is not that the Māori lack the capacity or desire to farm their lands', noted the Commissioners, but they have been worn down by their constant battles with the Native Land Court, which resulted in their losing control of nearly 400,000 acres of land. 'They seem to be dispirited...' concluded the Commissioners, who therefore did not hesitate to recommend that a large proportion of the lands remaining in the hands of Māori of Cook County be reserved for their use and occupation. In some cases they were also able to recommend leases to Māori lessees as specified by the owners.¹⁵¹

Another issue which featured regularly throughout the Commission's recommendations and reports, was that of land alienation and how the Commission dealt with recommending what lands were for settlement and what were for Māori occupation. Stout and Ngata were especially critical of the government's use of pre-emption to purchase Māori land below value, and this attitude was nowhere more so evident than in the report covering Rotorua.

Under the *Thermal-Springs Districts Act 1881*, the people of Rotorua had seen many of their lands purchased by the Crown at a cost greatly below the true value of the land, and had thus developed a deep suspicion of Government land dealing. As discussed in the Rotorua case-study, the iwi felt that they had been liberal enough in parting with their lands to the Crown for settlement and tourism purposes. More than half of their lands had been acquired at inadequate prices, and considering this treatment, Ngāti Whakaue asked that the Commission be lenient in dealing with the remnants of their lands. The lands in and around Rotorua were all the people had left, and they wanted the area to be reserved for Māori occupation.

Stout and Ngata responded positively to everything the Rotorua people told them, and in support of their concerns indicated in their report, amendments which they considered should be made to the *Thermal-Springs Districts Act*. As the Crown had seemingly purchased or acquired all of the Rotorua tourist spots, the report (AJHR 1908, G.-1E) questioned whether the special Thermal-Springs District legislation was any longer necessary. It also pointed out that for the purpose of sale, the Act of 1881 which stipulated the Crown as the sole purchaser, restricted the market.

Stout and Ngata therefore recommended, that in justice to the people of the Rotorua district, 'so long as the special Act was in force, the committees of incorporated blocks desirous of selling to the Crown should be advised [by]...an independent valuer to

¹⁴⁹ 'Interim Report of Native Land Commission on Native Lands in the County of Cook', AJHR 1909, G.-1E, p.3.

¹⁵⁰ Ibid., p.4.

¹⁵¹ AJHR 1908, G.-iii, p.6.

assist them in bargaining with the Crown, and *in no instance should the Crown purchase until such a valuation had been made.*¹⁵² By this recommendation, Stout and Ngata hoped to remove Te Arawa's greatest objection to the existing system of Crown purchase, and were especially desirous anxious for the Crown to cease purchasing Rotorua lands at a less-than-value price. They also assumed that a new system whereby Maori lands were valued prior to any transaction, would encourage Maori to enter into negotiations with the Crown for the acquisition of their surplus lands.

However, in the following paragraph of the report (AJHR 1908, G.-1E) Stout and Ngata contradicted themselves by stating that in their opinion the Rotorua hapu did not have any surplus lands for sale! Aside from that, the hapu also had very little available for lease, and the lands they were occupying were unsuitable for pastoral purposes. The Commissioners thus urged that all Rotorua lands reserved for Maori occupation should not be purchased by the Crown, except in the course of administering the Public Works Act. They reiterated that lands offered for sale in the future must be acquired only after the price had been fixed by proper valuation.¹⁵³ Both of these recommendations related primarily to adjusting the Crown's pre-emptive right in Rotorua. The Commissioners also believed that as with the administration of other lands not subject to special legislation, Maori needed land for themselves. For that purpose, Stout and Ngata suggested rather generally that there should be a communal farm, of two-three thousand acres, set apart for each of the Arawa hapu, including Ngati Whakaue and Ngati Pikiao. The Commissioners credited these people as being 'active and intelligent', and believed that the development of such farms would have splendid results for the people 'on industrial lines'.¹⁵⁴

With regards to the memorandum signed by the chiefs and members of Ngati Whakaue which accused the Crown of having broken promises to the people, the Commissioners dealt briefly yet convincingly with this issue in their report. The memorandum outlined Ngati Whakaue grievances which are summarised here. Upon the establishment of the Rotorua township on Ngati Whakaue lands, the Crown had agreed to become the people's trustee, and undertook to be their agent for the purpose of leasing and the collection of rents. These negotiations were confirmed by the *Thermal-Springs District Act 1881*. However, the Government neglected to collect the rents, and then proposed to buy the township land from the hapu - land which for Maori benefit had been expressly covenanted to be leased only. The Crown then applied its pre-emptive right, and the consequent price paid for the freehold of the township was considerably below value.¹⁵⁵

On the part of the Commission, Stout and Ngata confirmed that the 'allegations' made in the memorandum, especially those affecting the acquisition of the Rotorua township by the Crown, deserved explanation or denial by the Native Land Purchase Department. 'If it be a fact', continued the Commissioners, 'that whilst acting as trustee for the owners, the Crown, having prohibited Maori from selling their lands, bought them at an inadequate price, the action of the Crown cannot be defended.' This was a stern rebuke from the Commissioners, who in the interests of justice for the

¹⁵² 'Interim Report of Native Land Commission on Native Lands in the County of Rotorua', AJHR 1908, G.-1E, p.4. The italics are my own, to add emphasis to this specific portion of the recommendation.

¹⁵³ AJHR 1908, G.-1E, p.4.

¹⁵⁴ Ibid., p.5.

¹⁵⁵ Ibid., p.7. Refer back to full discussion of this particular memorandum in the Rotorua case-study, pp.135-139.

hapu, strongly advised the Government to give careful consideration to the matter and to provide redress.¹⁵⁶

Following the theme of land alienation, the Commission also recommended throughout their reports that tribes with very little remaining land should have it permanently reserved. Stout and Ngata fought against Maori landlessness, and their recommendations attempted to ensure that it would not occur. In their interim report covering lands in the county of Whakatane¹⁵⁷, Stout and Ngata commented on a precedent which they applied throughout all their recommendations; that in recommending land to be retained for Maori occupation they allowed for approximately thirty-five acres per head of the Maori population living on the block in question. This was to ensure that Maori had a decent and viable amount with which to begin farming ventures on.¹⁵⁸

The Commissioners were not in any way afraid to recommend that where necessary certain lands be left completely alone by the Government and Pakeha. One such example relates to the Pakowhai Reserve in the Hawkes Bay. (AJHR 1908, G.-1L). Pakowhai was the remnant of a valuable estate that appeared to Stout and Ngata to have been squandered and mismanaged. Furthermore, the Maori entitled to the Reserve also had very little other land from which to live off. Consequently, in the Commissioners' opinion, the circumstances surrounding this Reserve justified the absolute restriction of it from alienation in any form.¹⁵⁹ The report was brief, and the recommendation succinct. Stout and Ngata were advising the Crown to stay away from this piece of land.

Likewise, in dealing with the Whakatohea iwi in the report covering land in the Opotiki County (AJHR 1908, G.-1M), the Commissioners found that the people had very little land left. Unlike many other hapu and iwi in their region (Ngaitai, Whanau-a-Apanui, Whanau-a-te-Ehutu, and Whanau-a-Pararaki for example) the

¹⁵⁶ Ibid., p.5. As to the other major grievance which Ngati Whakaue had raised in their memorandum relating to the destruction of their indigenous fish, Stout and Ngata considered that the issue hardly came within their province. The matter however, was brought before them, and in that respect they considered it their duty to report on the issue. Indigenous fish in the streams and lakes of Rotorua had been wholly destroyed by the trout which had been placed in these areas as a tourist attraction. These fish were a great part of the hapu's food supply, and that Maori had suffered a grievous loss by the destruction of them could not be denied by Stout and Ngata. A further 'punishment' was inflicted on the people when they were not allowed to fish for trout unless they paid a licence fee. Much bitterness was felt by Te Arawa, and the Commissioners felt that the Tourist Department could 'allay this feeling, and remedy a real injustice' if they issued licences free of charge to the heads of families, permitting them at stated times to catch trout for food and not for sale. (AJHR 1908, G.-1E, p.5.) Is that not the idea behind today's customary fishing laws?!

¹⁵⁷ AJHR 1908, G.-1C., p.2.

¹⁵⁸ It is interesting to remember that during the sittings, Ngati Porou asked for 500 acres per person, which they considered to be adequate for a viable farming unit. Contrast this with Stout and Ngata's recommendations that they considered thirty-five acres would be adequate. That was a huge differential in what Maori thought, and what the Commissioners thought, would make a viable farm. Again Stout and Ngata were displaying Pakeha assumptions of what was good for Maori, and what Maori were capable of undertaking. Their figures closely resemble those which were set down under the Lands for Settlement Scheme. Brooking notes, that under the Land for Settlement scheme, Pakeha vendors could retain 1000 acres of first class land, 2000 acres of second class land, or 5,000 acres of third class land. In contrast, Maori could hold 25 acres of first class land, or 50 acres of second class land, or 100 acres of third class land. Nor could Maori retain their homestead blocks. (Brooking, Lands for the People?) This appears to me to be blatant discrimination against Maori.

¹⁵⁹ 'Interim Report of Native Land Commission regarding Pakowhai Reserve, Hawkes Bay', AJHR 1908, G.-1L, 1 page.

Whakatohea had been in contact with Pakeha for a longer period, and had lost most of their ancestral lands through confiscation and sales to the Crown. Following the confiscation of the Whakatohea lands, the Crown had subsequently granted reserves out of the confiscated area, the principal block being Opape Reserve of 20,290 acres. Stout and Ngata described this as 'not good land - at best second-class', however various families had turned their attentions to farming their small holdings and wished to reserve what was left of their land for this purpose. In support of the people's desires, and encouraged by their attempt to farm, Stout and Ngata thus recommended that the Whakatohea iwi had no surplus land for sale. What remained was to be reserved for Maori occupation, as Stout and Ngata sought to prevent the further loss of their ancestral lands.¹⁶⁰

The Commissioners' concern at the partitioning off of non-sellers interests was illustrated by the Wairarapa report (AJHR 1909, G.-1D).¹⁶¹ Concerned for the interests of those who did not wish to sell the land, the Commissioners were of the opinion that the Native Land Court should be afforded the opportunity of partitioning the interests of these owners who do not wish to sell. Although they were not many, their interests were extensive, and according to the Commissioners' report, belonged to Maori who had 'shown themselves capable of undertaking pastoral pursuits on a large scale.' By allowing for the partitioning off the interests of those who did not wish to sell, Stout and Ngata were trying to protect Maori owners from landlessness, and at the same time were encouraging Maori to maintain their lands as farms. In keeping with the Commission's promotion of the roles of the Maori Land Boards, this recommendation also empowered the local Ikaroa Board to handle the sale, using a system of public auction, which Stout considered to be the fairest method. Public auction, the Commission believed, would assure Maori of obtaining market value for their lands, and prevent under-valuation as had been prevalent during the purchases of Maori land by the Crown.

The final recommendation given by the Commission with regards to lands in the Wairarapa district, 'that the proceeds [of the sale] be held in trust for the purpose of acquiring other lands for the sellers', was again an effort to ensure that the Maori owners were not selling off all their remaining lands. At least it was an effort to ensure that Maori would remain financially capable of being able to buy other lands if they so chose to. Stout still seemed to believe that Maori were incapable of managing of their own finances, and this recommendation may also have been an attempt to ensure that the proceeds from the sale of lands was not squandered, by being held in trust.

¹⁶⁰ AJHR 1908, G.1M, pp.1-4.

¹⁶¹ In this later report covering the Wairarapa district, (AJHR 1909, G.-1D) the brief recommendations by the Commission incorporate all of the main themes which ran through both the Commission sittings and its reports, and provide a good example of all of the above themes woven into the recommendations for one district. There were forty owners of the 4,800 acre Waitutuma Block, whose relative interests or shares varied from 29 to 600 acres. Of the Waitutuma Block 1A, there were thirty-eight owners of this 17,800 acre block, with shares ranging from 400 to 1200 acres. The owners of both these blocks appeared before the Commissioners in Wellington, and, with the exception of a few owners who happened to have large shares in Block 1A, they asked that their shares be sold by public auction to the highest bidder. The Commissioners also received written applications from other owners asking for the sale of their interests by public auction, and consequently, as to the sale of the remainder of Waitutuma, the Commission recommended that the Ikaroa Maori Land Board should be empowered to sell the balance by public auction.

However, in the case of some of the larger blocks in the Hokianga and Bay of Islands, Stout and Ngata were compelled to override the wishes of the owners, and recommend lands for settlement which the Maori owners had asked to be reserved. The Commissioners' justification in this instance was that the reserves asked for, were in their opinion too large and 'clearly beyond the resources and capacity of the owners to utilise.' Such action by the Commission was rare however, and the report concerning these counties (AJHR 1908, G.-1J) went to some length to explain why the owners' wishes had been overridden, but not disregarded. The Commissioners seemed to feel that the vast acres of land requested by the owners to be reserved for their occupation, would simply overwhelm them when they attempted to farm the lands.¹⁶² Thus in a 'round-about way', the Commissioners can still be seen to be looking out for the welfare of Maori, although they did arbitrarily take it upon their shoulders to assume what Maori could and could not cope with. This is another example of the paternalistic attitude so characteristic of Stout's role on the Commission.

Aside from the suggestions written in the reports, there were also the recommendations contained in the schedules, which gave details of how much land Stout and Ngata had concluded was available for general settlement by way of sale or lease, and how much was to be left for Maori occupation. It was certainly not a matter of the Commissioners separating the poor areas for Maori to remain on and recommending that the good-quality land be sold to Pakeha settlers. The Commissioners were generally opposed to the sale of Maori land, and were careful to point out that in most of their reports, the schedules, so far as they related to lands recommended for lease or sale by public auction, were arranged so as to indicate the mode of disposition urged by the Maori owners themselves.

If Maori had asked that a particular block be reserved for a communal farm because that was all the land iwi had remaining, Stout and Ngata would have granted just that recommendation, without being swayed by the consideration that perhaps the block was quality land good for sale. Furthermore, many of the areas had not been viewed by the Commissioners, so they could not have known the true quality of the land on which they were passing recommendations. Although they were required to class the land into categories such as good pastoral country, bushland, sandhills and swamp for example, this was completed as part of their stock-taking functions, and not necessarily as an appraisal of where good lands were so as they could be opened to Pakeha settlement.

In the counties of the King Country and Waikato, where the bulk of the lands were owned by iwi forming the Waikato Confederacy, and acknowledging the leadership

¹⁶² Thus, in their final recommendations for the counties in Northland, including not only the Bay of Islands and Hokianga, but also Whangarei, Whangaroa, and Mangonui, the Commission recommended that a fairly even balance of land was to stay in Maori occupation and to be opened up for settlement. Of the grand total of 655,326 acres in the Northland region, 201,706 acres were recommended for Maori occupation, whilst a similar 253,384 acres was to be opened up for general settlement. However, in keeping with their desire to ensure that Maori did not become landless, the Commission only recommended that 12,389 acres be sold, and the rest was to be either leased or vested in the local Maori Land Board thus remaining under Maori ownership. As to the rest of the Maori land in Northland, 32,659 acres were already under lease, 124,564 were papatipu lands with the titles unascertained, and 41,152 acres were left as the Commission were unable to deal with them, perhaps due to time constraints. (Interim Report on Native Lands in Northland, AJHR 1908, G.-1J, pp.2-7.)

of King Mahuta, Stout and Ngata had a difficult time during sittings because of the distrust Maori felt for the Commission. Nevertheless, as described in the previous chapter, the Commissioners did meet with Mahuta and his assistant Henare Kaihau, the member for Western Maori, who suggested that the proceeds from the sales of some of their lands be held in trust so as to form a fund for the purchase of lands at Ngaruawahia and Taupiri - places which were from the earliest times associated with the mana and prestige of the Waikato iwi. The Commissioners' recommendations, although brief in this instance, confirmed what they had said during sittings followed Kaihau's suggestions quite closely. The schedules show that Stout and Ngata recommended 58,737 acres of land (primarily in the West Taupo County) be sold specifically for the mana fund. However, the Commissioners did not seem to fully trust Kaihau's scheme, and further suggested that the President of the Waikato Maori Land Board be associated with the Hon. Mr Mahuta and Mr Kaihau, as trustees for the proceeds of the sale of these lands, and that no disbursement of any proceeds were to be made without the consent of such President.¹⁶³

As a concluding thought, Stout and Ngata sought to remind Parliament of the bitter treatment the Waikato people had suffered at the hands of previous governments, as if to justify the bitterness and distrust shown by the local people towards the Commissioners as Government agents. They stated that:

'The lands now held by the Waikato and kindred tribes are but a remnant of the lands they once possessed. Most of the tribal land was confiscated, and much has since been sold. The area left, considering the number of people [who must survive off it] and the quality of much of the land, is not very large.'¹⁶⁴

It can be seen in the schedules of AJHR 1909, G.-1 that of the land in Piako County, lands of Ngati Haua under the leadership of Tupu Taingakawa, more than one half was already leased to Pakeha. Thus the Commissioners concluded that the balance of their lands did not appear to be too large and was to be reserved for the use and occupation of the Maori owners. As we know from the previous chapter, before making this recommendation, the Commissioners had worked very hard to ensure that Taingakawa's people would take up the farming of their lands, and try to 'profitably utilise' them. Consequently, their recommendations set out in the schedules noted that of the 55,759 acres in Piako County, 28,332 acres had already been leased; thus 27,126 acres were to be retained for Maori occupation, and only 300 acres were suggested for sale.¹⁶⁵

Similarly, in the Wairarapa, the area of Maori land was 152,188 acres; forty-seven and half percent of the land was already leased (72,280 acres), and according to the interests of the owners who wanted to sell, 22,800 acres were to be sold (which was one of the largest acreages recommended by Commission). The people were left with

¹⁶³ 'Interim Report of Native Land Commission on Native Lands in Manukau, Waikato, Ohinemuri and Thames Counties', **AJHR 1909**, G.-1A, p.2.

¹⁶⁴ Ibid.

¹⁶⁵ 'Interim Report of Native Land Commission on Native Lands in the Piako County', **AJHR 1909**, G.-1, pp.1-2. In a telegram from Taingakawa, in response to these recommendations of the Commission, he simply told the Commission: "Good help I am pleased with your report." (Telegram Tupu Taingakawa te Waharoa to Stout, 22 June 1908, Papers relating to the work of the Native Land Commission in the Waikato, National Archives, MA 78 Item #8.)

57,000 acres mostly in papakainga and reserves, which made up 37.5 percent of the lands they owned. This was hardly a large amount, and Stout and Ngata were particularly keen to leave this land in Maori hands because there was an 'important Maori sheep-farming community in the Wairarapa district'. Sheep returns for year 1907 showed that there were 23 registered Maori flocks, numbering nearly 36,656 sheep.¹⁶⁶ The Commission therefore recommended that because so much of the land was already leased destined for sale, the rest of the land in the Wairarapa region was to be left for Maori occupation or for lease to other Maori.

One of the dilemmas the Commission faced in making its recommendations, was that a great deal of Maori land was already under lease. The fact that forty-seven percent of Maori land in the Wairarapa district was already leased, raise a valid question: how much Maori land was already under lease throughout the North Island, at the time of the Commission's appointment? The answer to this was published in the interim reports of the Commission, where Stout and Ngata had included in the schedules of the reports, the acreages of Maori land already under lease in each of the districts they had examined. As part of their stock-taking role, discussed in Chapter Four, the Commission established how much Maori land was already under lease before their appointment. However, having obtained the data, Stout and Ngata chose to continue with their work, and did not make the results public until their reports were released.

Stout and Ngata wrote in their second and last general report that it had been exceedingly difficult to obtain reliable data as to Maori land under lease or negotiations for lease. Where the leases were registered or had been approved by the Maori Land Boards the information was readily available. In the case of unregistered leases, the Commissioners had to depend on the knowledge of 'leading Maori' and others in each district. Furthermore, most of the lands shown as under lease to Pakeha had only recently been taken up, thus many of the leases were still incomplete.

Nevertheless, having surveyed the forty-one reports produced by the Commission, it appears that approximately half of the Maori lands throughout the North Island were already leased, or under negotiation for lease. The average percentage of lands already leased equated to about fifty percent, and ranged from five percent in Northland, to nearly sixty-five percent in the Thames county.¹⁶⁷ This is particularly interesting data, in that the chief reason for the Commission's existence was to unlock acres of Maori land and throw it open for lease. Yet the Commissioners' reports show that in many areas half of the land was already being leased!

For example, in the case of lands owned by various hapu of Te Arawa in the Tauranga County, other than areas in which the freehold had already been sold to the Crown and Pakeha, just under fifty percent of their lands had also been leased. Comparatively little land was thus left to the Maori owners. Similarly, in the Hawkes Bay and Wairarapa districts, much of the most valuable Maori lands were under lease. As already mentioned, this totalled nearly fifty percent.

¹⁶⁶ AJHR 1909, G.-1D, p.2.

¹⁶⁷ All of the figures quoted in the next section were compiled by myself, but taken from the data published in the schedules to the Commission's reports, AJHR 1907, G.-1 through to AJHR 1909, G.-1G.

In contrast, in the report covering the Northland Counties, Stout and Ngata were surprised to note that in the five counties of the Bay of Islands, Hokianga, Whangarei, Mangonui, and Whangaroa, out of total of 655,326 acres only 32,659 acres had been leased or were under negotiation for lease to Pakeha. Thus, the total proportion of land being leased in North land amounted to five percent, which was the lowest percentage of Maori lands under lease throughout the districts examined by the Commission. They felt that this was 'quite exceptional' when compared with the position further south, where the leasing of Maori lands had been very 'keen' and active since 1905. The Commissioners partly explained this occurrence by the fact that a large area of the Northland (approximately 101,642 acres) was papatipu land not clothed with any title.¹⁶⁸

Elsewhere, the figures covering how much Maori land was already under leased, included:

- In the Waitomo, Kawhia, Awakino, and West Taupo counties in the King Country, the Commissioners examined 517,613 acres, and of that 228,583 acres had already been leased. Most of these lands were in the Kawhia county. Stout and Ngata recommended that another 165,595 acres were be leased, 114,344 acres (approximately twenty percent of original Maori lands) were to be reserved for Maori occupation, and only 9,086 acres were recommended for sale.¹⁶⁹
- In the Manukau County, twenty-one percent of Maori lands were already leased. It was sixty-four percent in the Thames County, thirteen percent in Ohinemuri, and twenty-eight percent in the Coromandel County.
- In the Whakatane County, 31,282 acres of Maori land were already under lease or negotiation for lease from total area of 158,345 acres.
- Of the lands in the Whanganui District which incorporated the Rangitikei, Wanganui, Waimarino and Waitotara counties, approximately twenty percent of Maori lands were already under lease.

Overall in fact, as far as they were able to ascertain, the Commissioners discovered that from an area of approximately 7,465,000 acres still in Maori hands, the area of land (other than Trust Lands) under lease or under negotiation for lease was approximately 2,350,000 acres; 'it will probably be found that the correct amount is nearer 2,400,000 acres', they noted.¹⁷⁰ The amount in Maori occupation as papakainga and farms was estimated at only 360,000 acres of Maori land. On average, after the sale and lease of their various lands, under half of what Maori owned was reserved for their occupation. Therefore, before the Commission had ever been appointed Maori had already lost much of their land, and there was little available for their own occupation.

Thus, what was the Commission's conclusion on the Government's assertion that thousands of acres of Maori land lay 'waste', and could be made available for Pakeha

¹⁶⁸ AJHR 1908, G.-1J, p.7.

¹⁶⁹ AJHR 1908, G.-1O.

¹⁷⁰ AJHR 1909, G.-1G., p.2. This figure from the Commissioners, equates to 32.2 percent of all the acres still in Maori hands, were already under lease at the time of the Commission.

who 'so desperately' needed it? The data tells a different story, and Stout and Ngata could not but have noticed that rather than lying 'waste', upwards of thirty to forty, and even fifty percent of Maori land was already under lease to Pakeha. This knowledge must have prompted them to comment: 'that it was not the Maori who had a large monopoly of land suitable for settlement - if monopolies existed they were in the hands of Pakeha, either as freeholders or lessees.'¹⁷¹ Settlers were already occupying vast amounts of Maori land, yet still they shouted out for more.

The Commission came face to face with this sort of pressure, for instance in regions such as the Wairarapa and Hawkes Bay, where much Maori land was already leased. Here their attention was drawn to the Pakeha demands for lands for closer settlement, and attempts by Pakeha to obtain renewals of leases before their current terms had expired. It seems that Pakeha lessees were thus trying to avoid the Commission, fearing that the land they were after might be reserved for Maori occupation only. Pakeha were also trying to ensure that they had leases to land secured for many years to come, and often under second-rate agreements where the terms were excessive and the rentals under-valued.

The Commission's terms of reference were founded on the basis that there was not enough Maori land under Pakeha settlement and more needed to be obtained, yet up to fifty percent of Maori lands were already under lease or negotiation to lease at the time of the Commission's appointment. This seems to be an irony, even a contradiction which the Government did not consider, or rather chose to ignore.

SPECIAL ISSUES - TIMBER

In addition to the general themes which recurred throughout the Commission's reports, there were also specific issues addressed by Stout and Ngata. The most important of these was the administration of the timber areas, and the rights Maori had to this resource which grew on their lands. The first General Report suggested that the District Maori Land Boards be given a greater role to play in the administration of Maori land, and one of the more specific recommendations related to the special powers Boards should be granted to deal with timber, flax, and the granting of prospecting rights and minerals. This was not elaborated on in this first report, but was however in various interim reports later.

In Northland, Stout and Ngata concluded that the necessity of cutting out large areas of milling timber had delayed, and would continue to delay in the future, the occupation of Hokianga lands for farming purposes. For a time, kauri had engaged the attention of the timber companies. However, once that had been practically worked out, the merchants turned to the milling of other timber such as rimu, matai, and kahikatea. In most cases the timber was acquired on the basis of paying a royalty to the Maori upon whose land the trees grew, and options had been secured over a number of blocks, by a few companies who had been allowed a fixed period for cutting out the timber. Where the Maori owners had determined to hold onto and work the land carrying trees, some chose to cut the timber into logs by themselves and sold it directly to the mills. According to the Commissioners, the individuals who did this often failed to account to the rest of the Maori owners for royalty on timber so

¹⁷¹ AJHR 1909, G.-1D.

sold. Much trouble had arisen in consequence. The hesitation of some of the Hokianga Maori to agree to an equitable system of dealing with the communal lands, so as to account for profits, was in the Commissioners' opinion, 'due to the traffic in timber by individual owners.'¹⁷²

Nevertheless, Stout and Ngata also believed that there was no question that the milling timber be allowed to be cut off the Maori lands of the Hokianga County before the lands were given over for settlement to the public. 'It is an asset too valuable to be wasted,' they declared. At the same time, Stout and Ngata suggested that the administration of the timber areas so as to secure to the owners the best terms, and to the settler the least possible delay, should be undertaken by a 'responsible body such as the [District Maori Land] Board.'¹⁷³ This was again drawing on an earlier recommendation which promoted the consolidation of all district Maori land administration under the one body, the Land Board.

Stout and Ngata also included a special section on timber in their Rotorua report, which highlighted the concerns Ngati Whakaue had over the continued control of their resources, especially timber. Most of Ngati Whakaue's land was of poor quality for pastoral purposes, however some of the area contained milling timber which was probably the most valuable crop which would ever grow on the land. Consequently, the owners who appeared before the Commission at Rotorua attached great importance to the timber, and insisted upon its disposal on the most favourable terms before the land itself was leased or otherwise dealt with. In particular, they asked that they be permitted to dispose of the timber before their lands were cut up into farms for lease or Maori occupation.¹⁷⁴

The Commissioners' attitude with regards to timber was no different to any other opinion they had espoused throughout their reports. Similarly, they were looking to 'protect' Maori from being cheated financially by unscrupulous Pakeha dealers, and to ensure their rights as owners of the land and timber resources. Their opinion is well encapsulated in the Rotorua report:

'We think that their [Maori] wishes [as to timber disposal] should have due consideration, and that some method should be devised...by which this valuable timber may be made available to the general public on terms most advantageous to the owners, and permitting to them a measure of control over the arrangements.'¹⁷⁵

Stout and Ngata then adopted a conservationist approach, and were concerned that to sell or lease the timber lands for settlement purposes making the destruction of the

¹⁷² **AJHR 1908**, G.-1J, p.2.

¹⁷³ *Ibid.*

¹⁷⁴ **AJHR 1908**, G.-1E, pp.2-3. In contrast to the timber lands of the Ngati Whakaue, the Commissioners noted that the lands owned by Ngati Pikiao, situated generally to the north and south of the Rotoiti, Rotoehu, and Rotoma Lakes, were perhaps the most valuable of the Rotorua lands, and the most suitable for pastoral purposes. However, as Stout and Ngata had complained of during the Rotorua sittings, the titles to many of these blocks were in an unsatisfactory position. The subdivisions were not complete, and expensive surveys were to necessary to complete the titles. The report thus implied that settlement of "fine farming lands" was being delayed because of the inefficiency of the Native Land Court, and certainly through no fault of the Maori owners. Rather, Ngati Pikiao had made up their minds to adopt incorporation, and were 'willing to throw open their lands for settlement' (by leasing only). (p.3.)

¹⁷⁵ **AJHR 1908**, G.-1E, p.3.

timber a necessity, as had been done throughout much of the Dominion, would be an 'act of criminal waste.' The lands on which suitable milling timber was growing were decreasing yearly, and therefore the Commissioners believed that there was a need to conserve the limited timber land, and to see it 'properly utilised'. They felt that even if settlement had to wait, it was better that it should wait than that valuable timber, 'worth in some cases from five to ten pounds per acre, should be needlessly cut down and burnt to provide grassing for 'one or two sheep per acre. The waste of such a procedure does not require to be pointed out', they concluded.¹⁷⁶

The Commission investigated various timber agreements throughout their travels, and one in particular culminated in a special report being released (AJHR 1908, G.-1T) with regard to an agreement by Ngati Tuwharetoa and the Tongariro Timber Company for the sale of timber and construction of a railway, which required validation by the Commission. As discussed in the previous chapter where the agreement was examined as part of the case study of the Rotorua region, the Ngati Tuwharetoa people owned a very large area of land. The agreement involved 134,500 acres, and of this area 82,000 acres had milling timber growing thereon. From this, the company had selected an area of 40,160 acres, which it estimated could be profitably milled and worked. Thus in 1906 an agreement was entered into whereby the Ngati Tuwharetoa owners agreed to sell the timber to the Tongariro Timber Company for a fixed price. Local Maori were to be given preference of employment in the timber works, and the agreement was signed without objection from the people of Ngati Tuwharetoa.¹⁷⁷

As part of its investigations, the Commission chose to examine the agreement, and having met Te Heuheu Tukino of Ngati Tuwharetoa and the Manager of the Tongariro Timber Company, considered two main questions: whether the agreement was fair and equitable for the Maori owners, and whether the interests of the general public had been upheld.

A special report was thus drafted, and the Commissioners answered both questions positively. In their opinion, the agreement was in the interest of the Maori owners, as the price to be paid compared with prices for timber in other districts, was good. Stout and Ngata also considered the agreement to be in the public interest, as it was to be a means of bringing a great area of land, 'practically lying waste' into profitable use not only to the owners, but to the Dominion. The railway proposed would be the means of opening up a new district and inviting settlement.¹⁷⁸

As part of the agreement a railway was to be built so as the timber could be easily transported out of the area. The Company were to meet the cost of the line's construction, with the iwi agreeing to sell the necessary land upon which to build the railway. With regards to the railway, Stout and Ngata considered that the advantage to the Maori owners of the railway could not be overlooked. The Commissioners believed that the line would connect Maori with the North Island Main Trunk Railway, and give the people an easy mode of access and egress to and from their

¹⁷⁶ Ibid.

¹⁷⁷ See details of the agreement and the Commission's meetings with both parties to the agreement in Chapter Five, pp.146-148.

¹⁷⁸ 'Report of Native Land Commission on Agreement by Ngati Tuwharetoa Tribe and a Company for Sale of Timber and Construction of Railway', AJHR 1908, G.-1T, p.4.

kainga and property. They also felt that such open access, which without the railway would have left the land inaccessible, would insure an increase in the value of Ngati Tuwharetoa lands.¹⁷⁹

'It may be said', the report continued, that such an agreement granted monopoly over a large timber area, but as the Commissioners had already said, 'the only way in which land could be opened up was either by the Government or a company.' Therefore, Stout and Ngata considered that if the Government was not prepared to give better terms than those offered by the company to Maori (in terms of timber prices and the construction of a railway), then no just reason could be raised against the owners entering into this agreement and doing their best with their timber and lands.¹⁸⁰

Although the Commissioners confirmed that the terms of the agreement were suitable, they also recommended that in order for the agreement to be effectively and quickly carried out, the Maniapoto-Tuwharetoa District Maori Land Board be authorised by statute to enter into the agreement as agent for the Maori owners. Did Stout and Ngata not believe that Te Heuheu Tukino, the highly respected and eminent leader of Ngati Tuwharetoa, and his advisers, could manage the timber transaction? Or were they simply following their own precedent which they had set in other reports; that of recommending that the management and administration of all Maori lands be handed to the local Land Boards? If the former situation was the case then the report runs the risk of being labelled as reflecting current stereotypes, in that it gives no credit to Maori for commercial capabilities. However, with Ngata on the Commission such an attitude would have been unlikely. Rather it was the Commissioners' desire to consolidate the administration of Maori lands under the one body that was paramount.

The Commissioners were nevertheless excited about the great advantages that would accrue to Maori owners, and also to the Dominion, if Parliament oversaw the 'speedy execution' of the timber agreement.¹⁸¹ In total, Stout and Ngata recommended that 135,000 acres of Maori land subject to timber agreements be validated by Parliament and made available for profitable settlement. However, these recommendations were accompanied by a warning that the rights of Maori to the timber growing on their lands had to be fully acknowledged. In particular, the Commissioners implied that Maori claims to royalties from timber milled, could never be denied.

SPECIAL REPORT - ORAKEI (AJHR 1908, G.-1P)

It is vital that this analysis considers one of the smallest of the Commission's reports, but a report which has probably raised the historical profile of the Commission more than any of the other reports. Although Stout and Ngata spent very little time dealing with this issue, and held no sittings with regards to the Orakei Native Reserve, it is interesting that this special report has in the meantime taken on greater significance than their much larger general and interim reports. The Commission came to review the position at Orakei, on the shores of Auckland harbour, and in doing so they

¹⁷⁹ Ibid., pp.2-4.

¹⁸⁰ Ibid., p.5.

¹⁸¹ Ibid.

extended their brief to consider the events of the Orakei past. They felt compelled to present a report covering the Orakei Native Reserve even though they were not conducting a special inquiry into the Reserve, on the grounds that it related to Ngati Whatua who had very little land remaining in their possession.

The report was brief, and got straight to the point of answering the question the Commission had to consider, namely how much land Maori needed for their own purposes, and how much could be offered up for lease or sale. The Commission began with an overview of the history of the 700 acre Orakei block, which was communal land meant to be preserved in trust for Ngati Whatua. 'It is plain', considered the Commissioners, 'that at the time of investigation of the title it was thought only fitting that this small remnant of land should be preserved for Ngati Whatua. Consequently, by the certificate and order issued by the Native Land Court, the Orakei Native Reserve was made inalienable, and the grant was issued upon trust for the people.'¹⁸² Stout and Ngata added that it was to be remembered that Orakei was Maori land and communal land, and was meant to be preserved as a dwelling place for the iwi. Therefore, the report considered that the partition orders made by the Native Land Court in 1898 were illegal and void because they destroyed an existing trusteeship.¹⁸³

On these grounds, the Commission noted that the leases made since the partitions with respect to Orakei were also illegal, and in all cases, sufficient reserves for Maori occupation had not been made. However, 'with much hesitation', Stout and Ngata considered that all the illegal leases should be validated, noting that 'the history of the legislation dealing with Maori land shows that the validating of illegal sales and leases of Maori land is continually going on.' The Commissioners proposed instead that an area of eighty-five acres be set aside for Maori occupation and the balance be available for approved leasing. They hoped that there would be no need for considering validation in the future as long as the recommendations they had made in their other reports were carried out - that is, that all selling and leasing was in future to be made by the Maori Land Board of the district by public auction.¹⁸⁴

Stout and Ngata closed their report on the Orakei Native Reserve with a justification of their recommendations, and in raising the issue of double standards again, were obviously greatly concerned at the inequalities in land dealing between Maori and Pakeha, which past Native Land Acts had validated. They concluded:

'There have been no doubt thousands of transactions between Pakeha that have not been enforceable by law, but Pakeha have not asked for the aid of legislation to validate or carry out their illegal contracts. It is only when the transactions are between Pakeha and Maori that the aid of Parliament has been sought. A precedent has been set in many past Native Land Acts, and as we believed the lessees in this settlement have been acting *bona fide* and the lessors are anxious that the leases should be given effect to, we, though we generally disapprove of validations, made the recommendations...set out.'¹⁸⁵

In particular, the Commission recommended that:

¹⁸² 'Interim Report of Native Land Commission on the Orakei Native Reserve', *AJHR* 1908, G.-1P, p.1.

¹⁸³ *Ibid.*, p.3.

¹⁸⁴ *Ibid.*, p.5.

¹⁸⁵ *Ibid.*

- the papakainga and nearby lands extending across the ridge above it be reserved for Maori occupation, that area to comprise 85 acres;
- certain existing leases be affirmed or validated where need be in respect of some 496 acres; and
- allotments be surveyed and *leased* for general settlement by public auction through the Maori Land Board in respect of some 63 acres.¹⁸⁶

This report thus dealt with a total of 644 acres, and the last recommendation in particular was consistent with most of the recommendations Stout and Ngata made throughout their reports. Most important, the Commissioners determined that none of the Orakei block should be sold (it was to be leased only for general settlement). The whole should be kept, the Commission found, as a tribal reserve, for it was the tribe's last land, and the people were still living on it. According to the Waitangi Tribunal Report on the Orakei Claim, 'that finding of the Commission was entirely consistent with the Treaty. What was inconsistent was that shortly after, the Crown set about acquiring the block anyway.'¹⁸⁷ The concerns Stout and Ngata had expressed in their report remained just that, and their recommendations were never heeded.

FINAL GENERAL REPORT

Following on from the presentation of the myriad of reports and their recommendations, the Commission, drawing to the end of its delegated time, presented their final General Report. Dated 21 December 1908, this was to be Stout and Ngata's last report, as Section 52 of the *Native Land Settlement Act 1907* had provided that the powers and functions of the Commission were to cease on 1 January 1909. Thus, the final report of the Commission proceeded to review the work accomplished by the Commissioners since their appointment, and to summarise their principal recommendations, including the legislative changes they had proposed. Unlike the first General Report, this was far more a 'tying up' of figures, and less an analysis of the Maori land situation. In the concluding pages, however, the Commissioners once again returned to comment on both Maori land legislation and the Maori Land Boards, two themes which were developed throughout their previous forty-one reports.¹⁸⁸

Towards the beginning of the final report, Stout and Ngata noted that no return had yet been compiled that showed correctly the total area of land of all classes owned by the Maori people in the North Island. They, however, estimated the area owned by Maori at 7,465,000 acres. As mentioned in Chapter Three, approximately 4,673,810 acres of this total area were excluded from the jurisdiction of the Commission. This was land directly or indirectly taken out of the scope of the Commission's inquiry

¹⁸⁶ List taken from New Zealand Waitangi Tribunal, *Orakei Report: report of the Waitangi Tribunal on the Orakei Claim*, (Wai 9), Wellington, 1987, p.53. The italic emphasis was added in the Tribunal Report, to highlight, I presume, that the Commission recommended that no more Orakei lands were to be sold.

¹⁸⁷ *Waitangi Tribunal Report on the Orakei Claim*, p.3.

¹⁸⁸ The cost of the Native Land Commission had been £9576 11s 7 per district, and it had been fully justified claimed Ngata, and far from being 'disgusting' as claimed by the Leader of the Opposition... 'the latter should recognise the valuable work that had been done...because of the elements of its recommendations which had been included in the new 1909 Act...its work was going to affect not only legislation, but the whole settlement of the Maori land question. (Ngata, speaking to House of Representatives, *The New Zealand Times*, 15 October 1909.)

because the title had not been ascertained, or because the title was of such a nature that the land could be administered in the 'interests of general settlement', or because the land was already 'profitably occupied' and utilised by Pakeha. To sum up briefly, the lands exempt from the investigations of the Commission included: 1,709,871 acres held under special Acts, such as the *Thermal-Springs Districts Act*, the *Urewera District Native Reserve Act*, and the *West Coast Settlement Reserves Act*; 145,187 acres of special trusts and reserves administered by the Public Trustee; 2,350,000 acres of land already leased or under negotiation for lease; and 468,752 acres of papatipu land.

In commenting on the papatipu lands - *i.e.*, lands the title to which had not been ascertained by a competent tribunal - which was excluded from the Commission's jurisdiction inasmuch as its recommendations in respect of such land could not be carried into effect under the *Native Land Settlement Act 1907*, the Commissioners noted that from their research the area of papatipu lands comprised some of the best 'virgin lands in the North Island...from the standpoint of a pastoralist.'¹⁸⁹ Stout and Ngata believed that the 'proper' settlement of such lands was being impeded, and the only way to progress was to 'cloth' the papatipu areas with titles, and ascertain the owners as soon as possible.

Nevertheless, with regards to the lands they were entitled to investigate, allowing for the removal of the above lands (4,673,810 acres) from the total area owned by Maori (7,465,000 acres), there was therefore available for inquiry by the Commission, an area of approximately 2,791,190 acres.

It had appeared to Stout and Ngata at the outset of their task that the Wellington and Lower Taranaki provinces and the southern portion of Hawkes Bay, were most favourably situated with regard to the Pakeha settlement of Maori lands; that in those districts the most valuable lands were efficiently occupied, and did not require the attention of the Commissioners as urgently as other parts of the North Island. In these regions, the Native Land Court had also been more active in the determination of titles, and the subdivision of lands into family and individual holdings. Stout and Ngata noted that this was probably 'because the lands were more accessible, and their richness and value made them more capable of bearing the costs of survey and litigation.'¹⁹⁰ The Commissioners concluded that the most 'backward' districts 'from the standpoint of both efficient occupation and settlement, and the determination of titles', were on the East Coast between Wairoa and Cape Runaway, and also in the Bay of plenty, Upper Whanganui, the King Country, Waikato and Thames, and the North of Auckland. In fact, the Commissioners had found that the most pressing need was in the Auckland Province, and there Stout and Ngata had expended the most time and labour.¹⁹¹

However, remembering that a feature of the Commission was the 'stock-taking' role that it played in assessing the current situation of Maori land in the North Island, the Commission's final General Report contains an interesting summary of the data collated by the Commission, and shows how the status of Maori land was viewed at the start of 1909. Of most interest, is how many acres were to be left in Maori

¹⁸⁹ 'Final Report of Native Land Commission', *AJHR* 1909, G.-1G, p.1.

¹⁹⁰ *Ibid.*, p.3.

¹⁹¹ *Ibid.*

occupation, and how many were suggested to be opened up for general settlement. The final figures were certainly less than the Government had hoped to see, yet were in keeping with the Commissioners' desire to 'do justice to the Maori'. The Commission were careful to point out that in most of their reports, the schedules, so far as they related to lands recommended for lease or sale by public auction, were arranged so as to indicate the wishes of the Maori owners themselves.

In all, forty-one reports, inclusive of the final General Report were presented, and the following table¹⁹² is a summary of the areas dealt with by the Commission in the various reports, and subject to its recommendations: -

SUMMARY OF AREAS AND RECOMMENDATIONS DEALT WITH BY COMMISSION

County	For General Settlement			For Maori Occupation			Special Recommendation		
	Acres	Roods	Perches	Acres	Roods	Perches	Acres	Roods	Perches
Mangonui	7,801	1	34	23,236	2	23			
Whangaroa	10,798	3	6	13,148	1	22			
Bay of Islands	90,056	2	34	68,574	1	22			
Hokianga	54,787	1	38	81,073	1	15			
Whangarei	13,098	1	26	15,674	0	19			
Hobson	15,079	0	0	13,484	0	11			
Otamatea	412	0	0	5,034	1	39			
Rodney	2,012	3	28	10,346	2	11			
Waitemata	1,828	0	34	2,681	2	9			
Manukau	8,916	0	0	22,538	0	0			
Waikato	4,494	3	36	2,521	3	34			
Raglan	15,662	3	24	66,704	1	18			
Piako	300	0	0	27,126	1	31			
Thames	5,978	0	0	1,828	2	38			
Ohinemuri	13,268	2	12	4,435	1	10			
Coromandel	2,653	0	0	18,015	1	12			
Tauranga	19,603	2	14	40,464	2	7	23,236	2	23
Kawhia	14,487	2	12	8,470	1	29			
Awakino	9,096	3	19	10,175	0	8			
Waitomo	118,972	3	27	87,236	3	34	3	3	0
West Taupo	156,250	3	23	32,611	3	31	135,000	0	0
							Subject to timber agreements rendered available for profitable settlement.		
Waimarino	8,095	0	0	48,032	3	7			
Waitotara	53,938	0	0	25,299	0	0			
Whanganui	...			3,720	2	33			
Rangitikei	...			8,992	0	23			
Rotorua	...			...			201,877	1	18
							Subject to the Thermal-Springs Districts Act, and		

¹⁹² This table had been constructed from a similar table presented by the Commissioners in their final 'General Report', AJHR 1909, G.-1G, p.5.

Whakatane	12,858	0	0	33,454	1	16	outside of Commission's jurisdiction. 108,750 2 0 Recommended to be incorporated and made available for sale or lease
Opotiki	8,987	2	16	29,686	3	0	6,733 0 0 Recommended to be incorporated and made available for sale or lease
Waiaapu	3,037	3	37	66,239	2	38	
Cook	...			30,129	0	0	
Wairoa	10,147	0	0	48,623	0	0	20,490 0 0 Subject to Tutira lease
Hawkes Bay	7,367	0	0	6,586	0	0	4,283 0 0 Subject to Waimarama lease
Waipawa	3,469	3	12	6,038	2	11	
Masterton	...			5,297	2	35	
Featherston	22,800	0	0	...			
TOTALS	696,260	2	32	867,479	1	24	477,137 2 18

In their final General Report, the Commissioners gave a grand summary of all these figures, which included:

<i>Recommended for general settlement...</i>	...	...	696,260 acres
<i>Recommended for Maori occupation...</i>	...	...	867,479 acres
<i>Subject to special recommendation...</i>	...	...	477,137 acres
Grand Total...	...	...	2,040,877 acres

Thus the area recommended for general settlement by sale and lease under Part I of the *Native Land Settlement Act 1907* (which had been passed after the Commission was set up), was just under 700,000 acres. Approximately 460,000 acres of Maori land were to become available for lease, and the remaining 235,000 acres were to be sold for settlement purposes. It was considerably less than the Government had hoped for.

Of the 696,260 acres recommended for general settlement, the position of this balance included: some 160,000 acres of Maori land to be vested in the Land Boards for general settlement; 66,000 acres chiefly in Poverty Bay, and already vested in trustees, now available immediately for settlement; 271,859 acres recommended by the Commission for general settlement, though Orders in Council could not be prepared until the areas had been allocated and the boundaries defined; and finally 155,403 acres to be vested in the Maori Land Boards under the *Maori Land Administration Acts 1900 and 1905* and to be available for lease.

For Maori occupation, the Commission recommended that under Part II of the 1907 Act (which divided their land into papakainga, family farms, communal farms to be incorporated, or land to be leased to other Maori), 867,479 acres of their own lands,

would remain in Maori occupation. Of those blocks; most were to be reserved for Maori occupation as family farms and papakainga, some were to be incorporated for the purposes of Maori farming and communal farms, and the additional areas were to be leased to Maori other than the owners, with the Land Boards acting as the agents for leasing. Stout and Ngata also recommended that some lands which were to be reserved for Maori occupation were to be vested in the Land Boards who would administer the land and act as managers. Furthermore, 67,308 acres, although subject to the *Thermal-Springs Districts Act*, was recommended by the Commission for both Maori and Pakeha settlement.

Of the area subject to special recommendation (477,137 acres) which did not come under the provisions of the *Native Land Settlement Act 1907*, 201,877 acres were in the Rotorua County and thus subject to the *Thermal-Springs Districts Act*, and an extra 28,000 acres were in the Urewera County, and subject to the special Act affecting that district. These areas were excluded from the jurisdiction of the Commission, and thus left a total area of 1,811,000 acres subject to the recommendations of the Commission in accordance with the provisions of the 1907 Act. However, referring further to the areas in the Thermal-Springs Districts and the Urewera country (with regards to the Commission's full recommendations and not just those limited by the provisions of the 1907 Act), Stout and Ngata did recommend that if Parliament ignored the areas' special legislation, 150,000 acres could be made available for general settlement.¹⁹³

In addition, there was also an area of 275,260 acres specially recommended for general Pakeha settlement. These included 135,000 acres of lands subject to timber agreements, which the Commission recommended be validated by Parliament in order to render the land available for profitable settlement. Likewise, the lands subject to the Tutira and Waimarama leases (24,773 acres), and also those recommended to be incorporated and made available for sale or lease (115,483), were the other areas accounted for as special recommendations. These lands were all to be added to the total of lands recommended for general settlement.

Thus in summary: of the 477,137 acres subject to special recommendation, 150,000 acres from the Urewera and Thermal Springs districts had been recommended by the Commission for general settlement (although this area was theoretically excluded

¹⁹³ Although the lands were expressly excluded from the jurisdiction of the Commission, Stout and Ngata had made recommendations with regards to the Urewera Native District Reserve, which contained approximately 646,862 acres, and was subject to the *Urewera Native District Reserve Act 1896*. Stout and Ngata felt that it was necessary to inquire as to how far the administration of these lands could be brought into line with that of other lands, and believed that further legislation would expedite the settlement of lands in this district, and open up nearly 80,000 acres which the Urewera Maori had apparently offered to Stout and Ngata for sale and lease. ('Final Report of Native Land Commission', AJHR 1909, G.-1G, p.6.)

To facilitate settlement of the Urewera lands, provision had been made in the *Urewera Native District Reserve Act 1896* for the appointment of a General Committee, to be empowered to deal with the questions affecting the reserves as a whole. It was also to be given power to alienate any portion of the district to the Crown. However the machinery of the Act had resulted in delays, and no committee had ever been elected. Thus, the Commission recommended that the election of the General Committee contemplated by the 1896 Act should be validated by Parliament, so that the Committee could exercise the functions and powers provided by statute in order to make the lands of the district available for settlement. Stout and Ngata felt that the appointment of the Committee was urgently required in the interests of settlement, as the Urewera owners had offered an area of 28,000 acres, which was later increased to nearly 80,000 acres, for disposal by lease. ('Interim Report of Native Land Commission on Native Lands in the Urewera District', AJHR 1908, G-1A, pp.1-2. See also summary of previous reports in AJHR 1908, G.-1Q, p.4.)

from the jurisdiction of the Commission); 275,260 acres subject to special leases and timber agreements had also been recommended for general settlement, and the remaining 51,877 acres was specially recommended for Maori occupation.

These areas were then added to the totals of lands recommended for both Maori and general settlement, and altogether, the area available for general settlement under the Commission's recommendations was 1,121,516 acres, and for Maori occupation, 919,361 acres. Therefore, the grand total of acres subject to the Commission's recommendation - including both those which could be carried into effect by the 1907 Act, and special recommendations outside this legislation - was 2,040,877 acres of Maori land.

Having completed a detailed analysis of the data, Loveridge concludes that the Maori Land Boards statistics indicate that the recommendations of the Stout-Ngata Commission were not carried out in their entirety. As far as Loveridge could determine, a total of only 347,954 acres of Maori land were vested in Land Boards under Part I of the 1907 Act, leaving nearly 300,000 acres unaccounted for. Similarly, it appears that the amount of land placed under Part II by Order in Council actually fell after December 1907. Even though 228,154 acres had reportedly been covered by Orders in Council, Annual Reports of the Department of Native Affairs in the period 1911-1927 indicate that the maximum amount of Part II land administered by the Land Boards at any given point was 214,146 acres in 1919, to which it had risen from a low point of 204,628 acres in 1911. Even the maximum figure leaves in excess of 450,000 acres unaccounted for.¹⁹⁴

Having stated at the beginning of their labours that the area available for inquiry by the Commission was approximately 2,791,190 acres, the result of those inquiries, however, showed that the areas investigated and covered by the recommendations of the Commission amounted to only 2,040,877 acres. According to the Commissioners, they ran out of time before their powers expired on 1 January 1909, and there were still some 750,000-800,00 acres of Maori land in the North Island which the Commission could have inquired into 'had there been time'.¹⁹⁵

The largest area of land not dealt with by the Commission amounted to 450,000 acres in the East Taupo County, which Stout and Ngata 'did not touch at all'. However, the Commissioners did not appear too concerned that this district had not been examined for they had been told that the land was unattractive to settlement, and consisted primarily of 'uninviting pumice land, without the magnificent timber' which had made the West Taupo lands so valuable.¹⁹⁶

However, the Commissioners did regret that time had not allowed them to visit Maori in Taranaki. They had received requests from the people of Taranaki to visit them, but due to time restraints had been unable to do so. 'This we much regret', lamented Stout and Ngata, 'as they [Taranaki Maori] feel that they have grievances, and they no doubt will feel that they have not been treated like their compatriots in the other [North Island] districts [because] the Commission did not visit them.'¹⁹⁷ Yet again, this

¹⁹⁴ Loveridge, *Maori Land Councils and Maori Land Boards*, p.77.

¹⁹⁵ *AJHR* 1909, G.-1G, p.6.

¹⁹⁶ *Ibid.*

¹⁹⁷ *Ibid.*

comment is evidence of the Commissioners' pre-occupation with being seen to be fair and equal, and also shows rare insight on Stout's part especially, into how Maori might have been feeling at the time - the sort of insight which was particularly lacking in Government circles at that time.

Following the completion of this summary of the Commission's data, Stout and Ngata took the opportunity in their last report to give some concluding remarks, which they hoped would leave the readers with 'food for thought.' These comments were of a general nature, and covered certain aspects of the Maori land 'problem'. In particular the discussion again drew attention to three important points which the Commissioners had frequently raised throughout both the sittings and their previous forty reports. These included: the proposal for a greater and more effective role to be played by the District Maori Land Boards; the insistence upon improving the efficiency of the Native Land Court; and the call for a consolidation of Maori land legislation.

1. Maori Land Boards and Administration

Stout and Ngata were satisfied that the legislature had armed the various departments of State and the Government with ample powers. What was now required, urged the Commissioners, was prompt and efficient administration. The bulk of the lands dealt with in their various reports consisted of large communal blocks, the titles to which they found were 'insufficiently advanced' to enable the owners to deal with the lands satisfactorily.¹⁹⁸ Furthermore, where the lands were vested in the Maori Land Boards for administration, the necessity for extensive surveys was greater still, being required not only for the purpose of completing the Board's title, but also for the subdivision of the land into areas suitable for sale and lease. Stout and Ngata thus felt it necessary that the partition orders of the Native Land Court be completed without delay, so that the titles could be placed promptly on to the Land Transfer register. The Commissioners believed that if this task was not carried out immediately, with assistance from the State in advancing the costs of surveys and providing experts, the settlement of the large areas covered by their recommendations would be 'seriously delayed and the purpose of the Legislature defeated.'¹⁹⁹

With regards to the Maori Land Boards, they had judicial duties to perform in the approval of leases and the recommendation of alienations by way of sale, and these duties necessitated that at least one member of the Board be competent to act in a judicial capacity. However, Stout and Ngata made the point that in order to improve the Boards' effectiveness in opening up Maori land vested in them, it was necessary that the Board members should also have experience in valuing and preparing lands for subdivisions and settlement. 'This should be the dominant characteristic in the constitution of each Board', advocated the Commission.²⁰⁰ Furthermore, ever mindful

¹⁹⁸ Ibid.

¹⁹⁹ Ibid.

²⁰⁰ **AJHR 1909**, G.-1G, p.7. In their concluding remarks on the Maori Land Boards, Stout and Ngata also noted that the Maori owners had shown hesitation in trusting the administration of their lands to the Boards, because of their fear of the heavy burdens that surveys and roading would entail upon their lands. 'This fear is not unjustifiable', stated the Commissioners, 'We are of the opinion that the least expensive...manner of carrying out the surveys is to have in each Board district a competent Director of Native Land Surveys, with authority to employ other surveyors and necessary staffs to conduct the surveys under [their]...supervision.'

of their desire to promote the welfare of Maori, Stout and Ngata also told the Government that it was the duty of the Boards to consult the wishes of the Maori owners before making any administrative or settlement decisions. For example, in the case of lands recommended by the Commission to be leased to Maori, Stout and Ngata suggested that the nomination of tenants must be subject to the wishes of the owners.

'We [the Commission] could do no more than indicate in a general way the proportion of each block...for Maori and for Pakeha settlement respectively. In the final adjustment of such details we trust that the Boards will consult the wishes of the Maori owners.'²⁰¹

2. Native Land Court

During the sittings of the Commission, Stout and Ngata had often talked of the inefficiency of the Native Land Court and noted then that it indeed presented a problem. Maori also were deeply concerned by the confusion and delays caused by the Native Land Court upon application for titles. With their land 'hung-up' in litigation Maori had felt restricted in the choices they had over their land, and the lack of jurisdiction had prevented the people from progressing. In an interim report covering the Opotiki County, the Commissioners referred to the large area (nearly half a million acres) of papatipu lands that had not been clothed with any legal title, and as to nearly one half of the area, lands that had not even been surveyed for investigation purposes. Describing such lands as a problem, Stout and Ngata stated that:

'At this advanced stage of the history of New Zealand there should not be any such thing as papatipu land. If the energies of the Native Land Court and the resources of the Native Department were directed more to these virgin districts and less to the more settled portions of the North Island, settlement would extend more rapidly and with greater benefits to the Dominion.'²⁰²

Likewise, in their interim report covering the Northland counties, Stout and Ngata drew attention to the large area of papatipu land there, and suggested that in order for settlement to be facilitated there was need for a 'special effort on the part of the Native Department to clothe this large area with proper titles.'²⁰³

However, it was not until their final General Report, that the Commissioners addressed the issue fully. Their recommendations were firm, and took the concerns of Maori with regards to the delays of the Court, into consideration. The Native Land Court had become burdened more and more with succession claims and with applications for partition. In particular, the two years prior to the setting up of the Commission had witnessed more disorganised sittings of the Native Land Court than usual. Thus, it seemed to the Commissioners, that until regular circuits were established, the work of the Courts could not be properly and effectively organised. Furthermore, Stout and Ngata maintained that a 'large mass' of extra emergency cases, special appeals and inquiries were also essential to clear the backlog of cases.

²⁰¹ AJHR 1909, G.-1G, p.7.

²⁰² Commission Report on Opotiki County, AJHR 1908, G.-1M, p.4.

²⁰³ AJHR 1908, G.-1J, pp.7-8.

'These may be met by the appointment of emergency Judges', suggested the Commissioners.²⁰⁴

Both Stout and Ngata were concerned about the ineffectual nature of the Native Land Court system, and it will be remembered that prior to writing their reports they had sent a list of questions to the registrars and judges of the Native Land Court in an attempt to understand why the Native Land Court had become so disorganised.²⁰⁵ Although it is not known from the records of the Commission, what, if any, the answers to such questions were, or whether such answers influenced the Commissioners' view to any extent, Stout and Ngata nonetheless offered an opinion as to how the system could be amended in their final General Report. They recommended first that the Judges be relieved of much routine work, and in this category the Commissioners classed the majority of succession claims. Instead, Registrars of the Court were to be appointed 'Sub-Commissioners', for the purpose of dealing with succession cases, claims for adoption, and the like.²⁰⁶ Furthermore, the Commissioners believed that much of the Court's work was behind schedule because of the inexperience of some of the Judges. Therefore, they suggested that the Native Land Court Bench was as far as possible to be recruited from the Registrars of the Court; people who by their experience and training were accustomed to the requirements of the offices and familiar with the various orders made by the Judges.

Finally, Stout and Ngata warned that the Native Land Court was a necessary body in the process of individualisation and would continue to exist until the consolidation of scattered individual and family interests had been finalised.

'The Dominion must be reconciled, for very many years to come, to the continued existence of the special tribunals created to deal with Native-land titles [sic]. The process of individualisation...must go on wherever the value of the land makes it desirable. At the same time the consolidation of scattered individual or family interests...must become more and more an important feature of the work of the Court. Its special functions will not cease until the Maoris [sic] ...have readier access to the Land Transfer and Deeds Registration Offices.'²⁰⁷

The Commission implied that if the Court wanted to successfully aid the progress of Maori land development it would need to prioritise its duties, and be maintained as an efficient and effective body, run by experienced and proficient Judges and staff. Both Stout and Ngata acknowledged that the Native Land Court 'was here to stay', but they implored the Court to throw off its cumbersome image and become effective in its job. In this way, perhaps, the Commissioners foresaw an answer to the concerns of Maori, for whom delay in the Courts had resulted in their having no real jurisdiction over their lands.

3. Consolidation of Maori Land Laws

²⁰⁴ AJHR 1909, G.-1G, p.7. However, Stout and Ngata did note in their final General Report, that following their complaint about papatipu lands in their earlier report on Opotiki County (AJHR 1908, G.-1M) they were glad to note that the investigation of titles to lands near the East Cape was proceeding as expeditiously as possible, and that arrangements had been made for Courts to sit in the North of Auckland and in the Waikato to deal with the papatipu lands there.

²⁰⁵ See discussion on the nature of these questions, pp.98-100 of Chapter Four.

²⁰⁶ AJHR 1909, G.-1G, p.7.

²⁰⁷ Ibid., p.8.

Stout in particular was beset by the mess Maori land legislation was in, and returned to the issue time and again throughout the Commission's reports, and once more in the final report. Although the Commissioners were not specifically instructed to deal with the problem of Maori land legislation, nonetheless the two men were impressed from the first with the necessity for consolidation of the legislation. They considered that it would be beneficial if the various Maori land laws, which amounted at the time to more than sixty different statutes, were aggregated.

By December 1908, the Commissioners had in fact done part of the work required, but reported with regret 'that the time at our disposal - namely, to the end of this year - will not suffice to finish this important undertaking [of attempting a consolidation of Maori land legislation].'²⁰⁸ In Loveridge's words, one of the main reasons given was that the task went well beyond 'scissors-and-paste'.²⁰⁹ As Stout and Ngata commented:

'...the Native Land Acts cannot be consolidated in the proper sense. There are so many conflicting provisions, so many sections worded in a general way, yet passed for temporary and special purposes, that consolidation...would be impossible. To take one...instance: the interpretation of "Maori land"...varies with each Act that is passed. What is "Maori land" for the purpose of one Act differs from the same by a qualification or a limitation of meaning when applied for the purpose of another Act...What is required is an Act or a number of Acts repealing existing general enactments and re-enacting the same with necessary amendments.'²¹⁰

Thus, they concluded, '...we are of the opinion that the legislation now on the statute books, though it urgently requires consolidation and slight amendment to harmonise conflicting details, is sufficient to settle the Maori lands in the North Island.'²¹¹ The Commissioners' attitude towards the failings of Maori land legislation seems to have softened somewhat in the writing of their final General Report, from the bolder and more critical stance which they took in their first General Report almost eighteen months previously. Perhaps this was because the Commissioners realised that simply drafting new legislation would be difficult enough, but as well they understood that any serious effort to consolidate Maori land legislation would inevitably raise broader issues which would require decisions on questions of policy.

'It will be found that at each step in the construction of the new measure or measures questions of policy await the decision of the Government and of Parliament,' noted the Commissioners. For instance, the laws relating to the alienation of Maori land already covered debatable ground where the battle of policies had waged and the result was only too evident in the measures on the statute book.²¹² When such laws would come under consideration for consolidation, Stout and Ngata had no doubt that the debate over the policy of Maori land alienation would continue. However, the

²⁰⁸ Ibid.

²⁰⁹ Loveridge, *Maori Land Councils and Maori Land Boards*, p.94.

²¹⁰ *AJHR* 1909, G.-1G, p.8.

²¹¹ Ibid., p.6.

²¹² Ibid., p.8.

Commissioners still firmly believed that a consolidating measure would be valuable as an effort to take stock of the progress 'made along many lines' up to the present.²¹³

The final General Report of the Stout-Ngata Commission, coming a full circle, closed with Stout and Ngata's central concern. Again the Commissioners considered the issue of Maori needing agricultural education, and concluded their final report by repeating an opinion which they had expressed in their first General Report of 11 July 1907:

'To our minds what is now the paramount consideration - what should be placed before all others when the relative values of the many elements that enter into the Native-land problem [sic] are weighed - is the encouragement and training of the Maoris [sic] to become industrious settlers. In dealing with the lands now remaining to the Maori people, *we are of the opinion that the settlement of the Maoris should be the first consideration.*'²¹⁴

Both Stout and Ngata acknowledged that it could have been difficult for the legislature to express in the provisions of a statute the Commission's endorsement of such a policy, however they were sure that it could be done effectively parliament was willing to adopt it.

This I believe was the essence of the Commission, and rather than simply paying 'lip-service' to the concerns and needs of Maori, both Stout and Ngata made a concerted effort to protect the welfare of Maori in their recommendations. Their approach in terms of encouraging the training and education of Maori was practical, and reflected the understanding of both men, that the Government would not swallow proposals which advocated sweeping, 'radical' change. After all Stout was a 'Pakeha product' of his time, and I believe that his attitude can be summed up less as zealous support of Maori concerns, and more as a moral and ethical obligation to protect those he saw as a strong people cast into an unhappy foreign situation by the British colonisers. Ngata we know cared deeply for his people, and tried to ensure that his position on the Commission would promote the progress of Maori and halt any further alienation of their land. The Commissioners appeared to have ended their report quite abruptly; perhaps reflecting the fact that they were conscious of work they had not finished.

In conclusion, the Commission's first General Report was an exhaustive review of past policy and legislation, whilst the final General Report included a summary of the Commission's work and recommendations. However, both of the general reports also made a number of suggestions as to the future of policy and administration of Maori lands. Stout and Ngata's main recommendation with respect to the alienation of Maori land was that there should be a halt to both private purchases, and purchases by the Crown. The Commission was especially critical of the Government's use of pre-emption to purchase Maori land below value. In addition it was proposed that the Maori Land Boards should be given exclusive powers to administer the alienation of Maori lands, and in particular to administer the leasing of Maori lands by public auction and to the highest bidder, and not by way of a pre-determined deal.

²¹³ Ibid.

²¹⁴ Ibid., p.9. The Italics are my own, and add emphasis to the Commissioners' attitude that Maori concerns were their first consideration.

In many respects, the most significant feature of the Commission's reports was the emphasis on the importance of encouraging and training the Maori to settle and utilise their own lands efficiently. To this end, the Commission recommended that the education of Maori be given an agricultural bias, that communal farms should be established and that the government should provide instructors to advise upon farm and stock management.

The recommendations of the Stout-Ngata Commission were aimed at improving the economic position of the Maori, and their social and political relationships with Pakeha. Stout and Ngata were aware of the need to bridge the gap between government policy and Maori wishes to utilise their land.²¹⁵ To this end, both men emphasised throughout their reports: the duty of the Government to educate the Maori for farming; the permanent reservation of land for Maori who had little left; and the importance of regarding the settlement of Maori as a primary consideration in dealing with Maori land-owners.

In general, the Commissioners accepted the views of the Maori owners whom they met during months of sittings and proceedings throughout the districts of the North Island, and embodied much of the Maori viewpoint in the two general, and forty interim reports they presented to the Governor. Unfortunately, there could be no guarantee that these recommendations would be adhered to.

Their reports reflected the attitudes that had developed throughout the sittings. Stout perhaps had learned more than Ngata in the process. Upon beginning his task, his stereotypes of Maori were evident: that they were lazy, prone to alcohol, and wasteful with their money. But once he was well ensconced into the work of the Commission, Stout himself admitted that Maori showed 'great possibilities' and *if given every chance* would successfully make a go of their land. The Commission's reports reiterated this opinion - that Maori needed to be given a chance by the Government, instead of the Government constantly taking their land, and removing control from Maori hands.

In the selection of Stout and Ngata the Government seemingly created an even balance which was maintained during the life of the Commission. However, in saying that, it must be noted that neither Stout for his part was not a raving pro-Pakeha supporter who demanded that Maori give up all their land for Pakeha settlers, nor was Ngata a 'radical' who advocated the separation of all Maori land administration from government. Furthermore, Stout's credibility both as an elder statesman and the Chief Justice was based on his reputation for fairness, honesty and partiality, and this facet of his character was evident throughout his tenure on the Commission. However, Stout's notion of what was fair was based on his education in a British system and a eurocentric view. Thus some of his more paternalistic recommendations, for example that, like him, Maori refrain from drinking and smoking, and learn to save their money, may have appeared patronising to Maori; but I do not think he could be accused of prejudice.

The empowering of the Stout-Ngata Commission to delve into Maori land matters, was regarded at the time, as a unique and significant concession by the Government

²¹⁵ Katene, 'Administration of Maori Land in the Aotea District', p.213.

to Maori. The Crown nevertheless had a covert agenda to use the findings of the Commission as a way of purchasing and leasing more acres of Maori land. The Government was desperate to obtain extra Maori land in order to placate the demands of Pakeha settlers crying out for more land. The Liberals were facing a dramatic drop in their voter ratings, and saw acquiring Maori land as the only way to appease Pakeha votes and ensure their support for the Liberal Government in elections. The fact that there was so little supportive official reaction to the Commissioners' reports indicates the evident disappointment of the Government that there was not the volume of land available for settlement that they had hoped for. In the final analysis, the Commission proved itself sympathetic to the difficulties of Maori owners, and focused on what was needed for Maori. Unfortunately, there was no guarantee that these recommendations would be followed by the Government.

CONCLUSION

From the evidence relating to the Commission's entire work, from the collecting of data to the conducting of sittings, it can be seen that both Stout and Ngata immersed themselves thoroughly in the work of the Commission, and were both very much in charge of the situations they found themselves in. Both the Commissioners believed in the job they were doing, and put in one hundred percent effort when it came to collecting data, hearing evidence, compiling research - all of which resulted in well thought-out advice and heartfelt recommendations. They strongly adhered to their own ideas, based on the vision of financially-secure Maori productively utilising their own land and Pakeha farming the surplus Maori lands which had been willingly leased. The Commissioners thought that such an outcome would do much to improve Maori-Pakeha relations in the country. More than anything, having examined the work of these two Commissioners, one senses Stout and Ngata's unfailing belief in the direction their work had taken, and the desire to make this 'one more government commission', a resounding success.

Stout stated that the work of the Commission and its objectives were *primarily* for the *benefit of Maori* themselves, and secondarily for the benefit of Pakeha settlers.¹ Both Commissioners wanted to give Maori a sense of responsibility, as they put it, and they believed that in dealing with the future of the Maori people, the fate of the next generation rested with the Maori of the present. It was therefore up to Maori themselves to determine what their future should be.² Unlike any Commission before them, Stout and Ngata took themselves to Maori communities throughout the North Island, much the same as the Waitangi Tribunal does today. Maori were guaranteed a fair hearing by Commissioners, and were invited to come and speak and air their views. Stout and Ngata listened first hand to Maori accounts, and took seriously requests that the people might be able to keep the land and farm it successfully themselves. Most importantly Stout and Ngata were guided by the expressed wishes of the majority of Maori owners of any given block so far as they were ascertainable in the open sittings of the Commission.³

Contrary to the wishes of the Government, Stout and Ngata turned out more in support of Maori grievances. As their work went on, they increasingly pulled away from their role as perceived by Government, that of pushing for the opening up of Maori land for Pakeha settlement, and moved more in the direction of protecting the welfare of Maori. I believe that two statements sum up completely the attitude both Stout and Ngata had towards their work on the Commission: first, that the 'proper settlement of Maori on their land was paramount to every other matter', and secondly, that Stout's and Ngata's chief desire was to do justice to the Maori people.

¹ Stout's comment reported in the *Bay of Plenty Times*, 29 January 1908. Italics my own.

² Minute Book containing notes on proceedings and evidence by Sir Robert Stout, 23 March 1908 - 30 April 1908, National Archives, MA 78 Item #4.

³ The Commissioners' own words printed in their second General Report, AJHR 1909, G.-1G, p.3.

In his customarily florid style of rhetoric, Stout saw the Commission as on a pilgrimage, and a 'crusade of enlightenment' to help re-mould Pakeha opinion on the subject of the Maori.⁴ Right from the start of Commission's sittings, Stout made his feelings known to the country, stating in a press interview that:

'The Natives [sic] are not the land monopolisers. The Europeans are the ones with the large blocks in the districts which I have been through. The blocks some of the Maori have are not sufficient, with what they have offered to lease, to maintain themselves, if they wish to become farmers. Whether they are to become farmers or not is important, and I have told them that if they do not become farmers the race will be destroyed...I have very strong views that it is the duty of the people to preserve the Maori, and make them an industrious people.'⁵

Ngata was similarly optimistic when speaking of the Commission's significance, and during an electioneering speech stated:

'I am extremely pleased with the progress made everywhere...and with the spirit that is actuating...young Maori everywhere. I have never been more hopeful of the industrial future of the Maori. Owing very largely to the advice tended by the Native Land Commission, during the two years of its existence, the Maori have come to realise the urgent necessity of the becoming cultivators of the soil, and not mere rent-receivers. The new spirit may be reflected, too, in the improvement generally of the villages, and in the style, of the dwelling-houses and the sanitary conditions generally.'⁶

The Commissioners wanted to see Maori settled on their own land, and given a fighting chance to utilise, farm, and improve it. Concerned at the barriers which inhibited Maori attempts to farm, the Commissioners frequently commented that Maori should be aided both financially and through education in their quest to farm successfully and profitably. Stout insisted on the importance of regarding the settlement of Maori as the primary consideration in dealing with Maori-owned land, and emphasised the duty of the Government to educate the Maori for farming and industry. Their recommendation was that there should be communal farms set aside for the education of young Maori in farming.⁷

Thus, the broad aim of Stout and Ngata in their endeavours was to protect and see justice done to Maori. United in this belief, the two Commissioners seemed to develop a close working relationship, and it is sometimes hard to separate out the respective opinions of Stout and Ngata from their joint recommendations; indeed it seems that their ideas regularly coincided. Stout often followed the lead of his younger partner, Ngata, who was naturally an advocate in favour of Maori retaining as much land as possible. Of his colleague, Ngata delivered nothing but praise. Impressed with his dignity and kindness, Ngata told the House of Representatives, that Maori had every confidence in Stout. He believed that Stout was represented the judicial and legislative process amongst the Maori, and during his time with the Commission Stout

⁴ The Gisborne Times, 22 January 1908.

⁵ The Napier Daily Telegraph, 14 March 1907.

⁶ The Evening Post, 21 December 1908

⁷ Waikato Argus, 27 June 1908.

had talked with Maori, and put the position of the Government clearly and simply before them. Consequently, enthused Ngata, Maori looked to Stout as the 'embodiment of the justice of the British Empire,' and accepted his advice.⁸ Ngata considered Stout a great success. The fact that the Commissioners relationship was more than amicable was fortunate, as the protection of Maori land had largely depended on their discretion when writing their recommendations as to the future disposition of Maori land.

In reply, Stout spoke in terms of high praise for Ngata, and told the Evening Post following the conclusion of the Commission, that Ngata was:

'an able, judicious, and judicially-minded man, who will make his mark in the Dominion's history. Not only is he well posted in Maori law, but he is exceedingly well informed in English literature. He is eminently studious, and has a wonderful capacity for assimilating what he reads. Not content with being a successful sheep-farmer, he has sought to advance agriculture among his compatriots by starting experimental farms...What do I [Stout] think of Mr Ngata as a colleague on the Native Land Commission? Well, I have been closely associated with him for the past two years, and have had unusual opportunities of studying his character. I can only speak of his industry and earnestness in the highest possible terms, and I consider him a very able man indeed.'⁹

However, although the views of the two Commissioners were often very similar, with no hint of any major disagreements occurring between the men, their methods of achieving their aims and reaching out to the Maori population differed somewhat. Ngata pursued his task with a quiet, yet steely determination, whilst Stout adopted a more paternalistic and moralising approach. In much of the newspaper evidence, Ngata's opinion is somewhat overridden by the verbosity and pomposity of Stout, who was endlessly quoted in local papers delivering sermonising declarations.

One might assume that the dichotomy of Ngata's role on the Commission, as simultaneously a member in a predominantly Pakeha parliament, and a rising Maori leader, would have made his job somewhat delicate. Yet he does not seem to have met with difficulties except when the Commission visited the East Coast. Here Ngata faced a real dilemma between his supposed impartial position as a Commissioner and his overpowering personal desire to prevent any further alienation of the lands of Ngati Porou; Ngata wanted all the remaining lands to be left in their hands, and certainly was loath to recommend any differently. Ngata was an honourable person nevertheless, and as any judge would do, he counted himself out of any active role in the recommendations relating to Waiapu, owing to his vested interest in the area. However, this was not done until Ngata had done his utmost to influence the thinking of Stout and showed him the successes of Maori farming and Maori land settlement on the East Coast. Ngata did not seem to experience this dilemma anywhere else in the North Island, and only found his position compromised when the Commission entered Ngati Porou territory.

Nevertheless, although Ngata was a member of the Liberal Party, his ideals with regard to the promotion of Maoridom and the control of the land remaining in Maori

⁸ NZPD 1911, Vol 154, p.731.

⁹ The Evening Post, 7 January 1909.

hands, seldom seemed to be compromised or restricted by his loyalty to a party which was openly looking for land upon which to settle Pakeha. Ngata saw his role on the Commission as separate from his career as a politician, and saw it as a useful chance to further promote the Maori cause - that of preventing the alienation of more Maori land, and establishing procedures which would help ensure future livelihoods for Maori.

Ngata publicised Maori wishes, and pushed them onto the agenda of government thinking. He fully believed Maori to be capable of farming, and that they could be as 'industrious as the Pakeha'. With every opportunity he was given, Ngata used the forum of the Commission to praise Maori farming endeavours. In an interview with the New Zealand Herald, towards the end of 1908, Ngata spoke of the pleasing progress which had been made by Maori throughout the Hawkes Bay and East Coast, where the chief industries had become sheep-farming and dairying. Throughout other areas in the North Island, many Maori had also commenced improving their lands and raising stock. In what became a common plea for finance to be made available to those Maori who wished to farm, Ngata reiterated that the 'general tightness of the money market had seriously affected the improvement of Maori lands', and in many cases had limited Maori attempts to 'productively utilise' their blocks.¹⁰ It was his belief that Maori only needed the incentive to take up farming on their own lands, and the responsibility lay with the Government to provide education and finance.

Similarly, Stout seemed to believe that the 'salvation of Maori' rested in the reservation of their land. However, in contrast to Ngata, Stout appeared to doubt the moral strength and desire of Maori to successfully engage in farming their own lands. In urging them to correct the 'weaknesses of their race', and their sometimes 'profligate habitual tendencies', Stout contended that the responsibility for the Maori future lay with the people themselves. In what became his most common exhortation throughout the sittings, Stout urged that if Maori wished their 'race' to prosper they must work, give up the custom of 'hanging about' towns, loafing, and drinking, all of which were detrimental to their health and progress. Stout admonished the people regarding the perils of alcohol and sloth, as would a puritanical minister to his parishioners.

The approach Stout took to his work with the Commission can thus be characterised by his regular sermonising to those Maori who appeared at sittings. He was rather paternalistic in his dealings with Maori and often reprimanded them as though they were children. Unlike Stout, Ngata did not feel the need to lecture Maori on their perceived weaknesses, and rather promoted action to help the people solve particular problems. Ngata's opinions were more in favour of helping Maori to develop whilst maintaining a strong basis in traditional customs.

Throughout the work of the Commission, Stout appears to have reserved to himself the right to be the arbitrary decision-maker, and he was not easily convinced by the ideas of others. He most certainly felt that he knew best, and although he paid attention to the concerns of Maori owners, his recommendations were primarily based on what *he* thought was a suitable and practical answer. Stout sometimes doubted the

¹⁰ 'Interview with Mr Ngata, member of the Native Land Commission', New Zealand Herald, 26 December 1908.

ability of Maori to make their own 'sensible' decisions, and tended to adopt what he saw as a protective role towards them. However, most of the time, Stout's decisions were in support of Maori concerns or wishes anyway, and he was well regarded by Maori and Pakeha alike for his honesty, integrity and fairness.

However, Stout was still a long way from truly understanding the feelings of Maori, and the genuine fear they held for the loss of their land. For Stout, the world did not revolve around cultural attachment and long-standing ties to land, and the bottom line was that the land had to be utilised. If Maori could not do so, then Pakeha should be allowed the chance. Stout still felt that Maori were behind in terms of their development with regards to farming, making money and working hard. He was an assimilationist, and did not see qualities in the Maori world such as community strength, which could be adapted for the future. Stout is nowhere better characterised than by Brooking, who writes that Stout was 'at one and the same time, the most sympathetic and condescending Pakeha commentator on Maori grievances.'¹¹

On the whole, Stout and Ngata turned the Commission increasingly away from being an agent of Government, making it more of an independent Commission which sought out the truth and looked for new ideas. The Commissioners fearlessly highlighted the double standard with which the law was applied to Maori and Pakeha property rights, and some of their public comments were quite remarkable because they challenged so many of the often racially-based assumptions underlying official rhetoric and policy at the time. In particular, they challenged the whole Pakeha assumption of 'unused' lands, and raised the very pertinent point that although many Pakeha owned unoccupied lands, it was never suggested by the Government that such lands should be taken by the State for the purpose of settling others.

In some ways, the Commissioners shared many of the general assumptions regarding Maori land which were pervasive at the time. They assumed that all Maori land had to be in Crown-derived titles rather than remaining as customary land, unprocessed by the Native Land Court. However, in terms of their promotion of consolidation, the Commissioners were at least thinking positively about overcoming the problems surrounding fragmentation of title which the Court processes had created. In order to overcome the difficulties of title, and the inability to farm small multiple land holdings, Ngata suggested adopting a policy of consolidation (which he had regularly promoted), whereby various small interests owned by individual Maori could be exchanged so as to form larger areas, more economic for farming. Such ideas were officially accepted when they were later incorporated in the *Native Land Act 1909*.

Stout and Ngata mentioned the Treaty in some of their recommendations, and made some references to the Crown's obligation under the Treaty. Although it is interesting that they in fact referred to the Treaty, the limitations of their Treaty interpretation are evident in comparison with the Waitangi Tribunal's recent examination of the Crown's duties and responsibilities. This is particularly so in terms of the obligations identified by the Tribunal which required the Crown to act in good faith towards Maori, and included the duty to protect Maori from entering into contracts injurious

¹¹ Tom Brooking, *Lands for the People?: the Highland Clearances and the Colonisation of New Zealand: a Biography of John McKenzie*, Dunedin, 1996, p.146.

to their interests, and ensuring that Maori were left sufficient land for their present and future needs.

In making their recommendations, Stout and Ngata addressed the present, and not the future needs of Maori. Yet the Commissioners were operating at a time when the Maori population was just beginning to recover not long after the lowest census figure for the Maori population was reached in 1896, and by the early decades of the twentieth century, it had begun to dramatically increase. It is evident when we look at their recommendations that only thirty-five acres per head was hardly enough land to be reserved for Maori occupation, that the Commissioners were not looking past the present, or considering providing for Maori and their growing population in the future. They certainly did not allow for the sustained dramatic increase in the Maori population. And yet Maori themselves believed that 500 acres was the minimum required to sustain the people. Meanwhile the Government went on buying land, and by 1940 it finally became clear that it could no longer accommodate all the people on the land they had left.¹²

THE AFTERMATH OF THE REPORTS: THE 1909 NATIVE LAND ACT

Early on when the first interim reports were received, the Government publicly defended the Commission (well Carroll did anyway) for a short time, and Carroll was always publicly full of praise for the Commission. Consequently, an initial result of their labours was the two important provisions to assist Maori that the *Native Land Laws Amendment Act 1908* contained. The first permitted the establishment in Maori districts of communal farms which could be administered by a competent authority or under a co-operative system. The second provision allowed Maori Land Boards to grant leases without competition to the Maori owners or their nominees.¹³

Initially, the Government had been enthusiastic about the creation of the Commission and held much faith in its abilities to solve the Government's problem of how to supply more land to Pakeha settlers whilst at the same time supporting Maori in their desire to remain on the land and farm it. The Government believed that the Commission would come up with material 'so complete and digested' as to lead to the passing of legislation to cover the issue of Maori land entirely. This enthusiasm, survived the release of the Commission's early reports. But after this, and the passing of the *Native Land Settlement Act 1907*, the Commission tended to somewhat fade from discussion in Parliament. As the two years of the Commission's sittings progressed, initial Government warmth towards the Commission started to wane, and the status of the Commission as the solution to the 'problem' was somewhat downgraded. As the Government realised the enormity of the issue at hand, its support of the Commission decreased to the point that by the beginning of 1909 its last General Report was accorded little publicity and political attention.

The Government's position with regards to the Commission was made very clear, when Premier Joseph Ward responded to a question in the House which related to

¹² H. Belshaw, 'Economic Circumstances' in I.L.G. Sutherland, ed, *The Maori People Today: a General Survey*, Wellington, 1940, pp.182-228.

¹³ G.V. Butterworth, 'Maori Land Legislation: The Work of Carroll and Ngata', *New Zealand Law Journal*, (August 1985), p.247.

how the Government planned to enforce the Commission's recommendations. 'Members must recognise', began Ward, 'that on a matter of policy the Government could not be expected to accept for their absolute guidance the proposals made by the Commission as to what the lines of policy should be.' The Government accepted the valuable work that the Commission had done in regard to the detailed information they had prepared with a view to the future use of Maori lands both in the interests of Maori and Pakeha. However, Ward removed himself from any firm promise that the recommendations would be fully enforced, thus distancing himself and the Government from the results of the Commission. Ward concluded that:

'The Government attached the fullest importance to the...Commission's reports; but they never said, nor would they say, that they as a Government would take their recommendations as being the only ideas for policy proposals to be prepared by Government for submission to Parliament. That responsibility rested entirely upon the Government.'¹⁴

Even as electioneering time began in September and October 1908, when Ward campaigned on the strength of his Maori land policy, he rarely mentioned the progress of the Commission, and never used it to highlight the success of the Liberal Government in dealing with the settlement of Maori lands. It was almost as if the Commission was no longer relevant, and no longer suitable as an electioneering 'carrot to dangle'.

Nevertheless, towards the end of the 1908, there were still several areas of Maori land which had not been dealt with, and some doubt existed as to whether the Commission would finish its labours by the end of that year. By December 1908, Stout still had a very full timetable which included travelling between Auckland and Wellington in connection with Commission business, and obtaining further evidence. Legally, the powers and functions of the Commission were due to expire on 1 January 1909. However, in order to enable the work of the Commission to be completed, there were instruments in place which would ensure the reappointment of the Commissioners so that they could finish their work.

Thus in January 1909 the Royal Commission on Native Lands and Native Land tenure was reconstituted, with Jackson Palmer (Chief Judge of the Native Land Court) replacing Ngata.¹⁵ Further recommendations were made in 1909 by Stout and his new fellow-Commissioner Jackson Palmer, and the reports seem to indicate that a small amount of land was recommended for Maori occupation by Stout and Palmer.

However, by the start of 1909, the wind had gone out of the Government's sails in regards to the importance of the Commission's work, and already it was looking to yet another method of solving 'the Maori land problem'. Responding to the Commission's emphasis on the utter inadequacy of the whole structure of the law, the Government now acknowledged that major changes were required, and in the same month as Palmer was appointed to the Commission in Ngata's place, Ward took the step of appointing Ngata as under-secretary to Carroll as the Native Minister. Ngata was then whisked off to work on the 1909 Act. According to Butterworth, his first task

¹⁴ NZPD 1907, Vol 141, p.512. (Ward)

¹⁵ Jackson Palmer was a lawyer and sometime politician who had been appointed to the Native Land Court in 1904, and became Chief Judge in 1906.

in the new position was to 'assist Carroll in changing the laws'.¹⁶ About this time, the Counsel to the Law Drafting Office, John Salmond, set to work on a new Bill.

By now the Government had moved to the establishment of the 1909 Native Land Act, and had something new to cling to in the hope of meeting Maori and Pakeha aspirations. Twelve months after Stout and Ngata had presented their final General Report, the *Native Land Act 1909* was passed. The drafting of the 1909 Act was a monumental task. Carroll helped formulate the broad principles and Ngata assisted the drafting but the main work was undertaken by the Solicitor-General Sir John Salmond, who undoubtedly drew on the work of the Commission. It did not go as far as Ngata wanted but he and Carroll thought it the best compromise they would get.¹⁷ Premier Ward thought it went too far and sought to delay its second reading as a Bill. The Bill was on the Order Paper however and on the night of 15 December Carroll moved its second reading.

The *Native Land Act 1909* was based on the findings of the Commission, yet it also contradicted the Commission's recommendations, and it cannot be forgotten that most of the recommendations were never followed, including those which extended the papakainga and Maori reserves. However, there was the facility to provide for them in the Act passed in 1909. The new Act replaced 49 Public Acts, 18 Local Acts, 2 Private Acts and had to fit with a host of general laws. The Act was thus based on this recommendation of Commission:

'...the Native Land Acts cannot be consolidated in the proper sense. There are so many conflicting provisions, so many sections worded in a general way, yet passed for temporary and special purposes, that consolidation...would be impossible...What is required is an Act or a number of Acts repealing existing general enactments and re-enacting...with necessary amendments.'

The *Native Land Act 1909*, in adhering to these ideas of Stout and Ngata, was thus a consolidating and amending Act 'designed to rationalise a plethora of confusing and conflicting laws'¹⁸, and, in a sense, to start again. It removed all existing restrictions on alienation imposed by any previous enactment, Court order or Crown Grant but made provision for restrictions on alienation to be re-imposed. Accordingly while previously inalienable Maori lands were now exposed to sales for the first time, there was provision to reformulate restrictions in terms of the Commissioners' recommendations. On the face of it, this was one of the most devastating provisions of the Act, and the reasons for it were to simplify and 'consolidate' the whole process of dealing in Maori lands.

More particularly the provisions in the *Native Land Settlement Act 1907*, under which the Commission had reported, were continued in force in Parts XIV and XVI of the 1909 Act. Read with the Act and the Commission's recommendations, lands reserved for Maori could be vested in a Board able to give occupational licences to owners. Through the Board, the balance of lands could also be leased.

¹⁶ G.V. Butterworth, *New Zealand Law Journal*, (August 1985), p.246.

¹⁷ New Zealand Waitangi Tribunal, *Orakei Report: report of the Waitangi Tribunal on the Orakei Claim*, (Wai 9), Wellington, 1987, p.53.

¹⁸ *Ibid.*

Part XIV of the 1909 Act dealt with lands which had been vested in the Maori Land Boards under Part I of the Native Land Settlement Act 1907 as a result of recommendations made by the Commission. The 1907 Act had required that half of the lands so vested were to be made available for sale, and half for leasing. A 1908 amendment allowed the Boards a certain latitude in varying these proportions for individual blocks, as long as the prescribed ratio was maintained for all the Boards' lands in an annual basis.¹⁹

Stout and Ngata had consistently recommended that the control of all Maori land was to be administered under the District Maori Land Boards. Lands reserved for Maori occupation under Part II of the 1907 Act (also as a result of recommendations made by the Commission) came under Part XVI of the 1909 Act. These were administered by the Boards as agents for the owners, who could not themselves alienate it. Among other things, when lands were alienated the Maori Land Boards were 'compelled to see that [the vendor] does not part with all his Native land...'²⁰

However, there was still a compromise. The Maori Land Boards constituted in 1905 and 1909 were not tribal councils. They covered districts too large and included too few members to represent tribes fully, there being only three persons with one Maori representative and under the presidency of a Maori Land Court judge. (Stout had recommended that the President reside in the particular district, and know something of the area; this was obviously ignored). 'The Land Boards were really in the nature of courts with parental powers.'²¹ Maori land was open to purchase by anyone but the Boards had to approve each sale and could impose restrictions. 'With that, and a heavy emphasis on leasing, the Boards represented a compromise between the opposing political views of 'no sales' and 'free trade'²², and did register some but not a lot of adherence to the recommendations of the Commission.

In respect of the Commission's recommendations on alienation of Maori land, the 1909 Act was a mixed bag. Alienation to private persons was effected in four different ways. Two of these which were relevant to the Commission's recommendations include:

1. Private Alienation

All restrictions, statutory and special, against alienation were removed in direct contrast to the first major recommendation Stout and Ngata made in their first General Report which prohibited any further private dealings and Crown purchases in Maori land. However the Act guaranteed that private alienation was restricted in certain conditions in cases where the land was owned by more than ten owners in common. All alienations were required to be confirmed by the Maori Land Board.

2. Alienation by Maori Land Board

This method of alienation was effected by a Maori Land Board either as the legal owner or as the agent of the owners. Land Boards became the owners when corresponding to Part I of the *Native Land Settlement Act 1907*, lands were vested in the

¹⁹ Donald M. Loveridge, *Maori Land Councils and Maori Land Boards: An Historical Overview, 1900-1952*, Prepared for the Waitangi Tribunal, Wellington, September 1996, pp.99-100.

²⁰ *NZPD 1909*, Vol 148, pp.1102-1103 (Carroll).

²¹ *Waitangi Tribunal Report on the Orakei Claim*, p.53.

²² *Ibid.*

Boards as a result of the Commission's recommendations that the land be available for settlement. Land Boards became agents of the owners when corresponding to Part II of the 1907 Act, which dealt with lands reserved by the Commission for Maori occupation. These latter lands were not vested in the Boards, but were administered by the Boards as agents for the owners. Given this provision, the Commission's recommendations with regard to giving the Land Boards exclusive powers to administer the alienation of Maori land were certainly acknowledged in the 1909 Act.

By the 1909 Act, no major alterations were made to the provision, that the land be disposed of by public auction or tender by way of lease or sale in equal proportions. Thus, another recommendation of the Commission which did survive, and was taken up by the 1909 Act, was the provision that all sales and leases of Maori land were required to be made at public auction to the highest bidder. This was to ensure all would-be purchasers and lessees had an equal chance of obtaining land, and aimed to limit the abuse which saw large quantities of Maori lands fall into the hands of only a few conniving dealers.

In many respects the most significant feature of the Commission's reports was the emphasis on the importance of encouraging and training the Maori to settle their own lands. In particular, the one recommendation which was pivotal in the Commissioners' reports, that Maori receive education and funding was ignored by the 1909 Act. Little was done to overcome the difficulties which stood in the way of Maori using their own lands. No provision was made for assisting Maori under the Advances to Settlers Scheme, and no alternative form of assistance was offered. This was a realistic suggestion by the Commission that the Government should aid Maori in their quest to work their lands. It was a simple and obvious idea, yet one which the Government refused to address.

Certainly, as is known from one of the smallest, yet best known of the Commissioners' reports, their recommendations for the Orakei Native Reserve that eight-five acres of land be reserved as papakainga was never implemented. The Waitangi Tribunal has recently condemned the Government's failure to implement this recommendation as a breach of the Treaty of Waitangi.

Thus some of Commission's recommendations were incorporated into Act; but the Government failed to implement fully many of the recommendations of the Commission when the Native Land Act 1909 was passed, even though the provisions of the 1907 Act were embodied in the new legislation. In fact, while the Government quite happily accepted parts of the Commission's reports, and endorsed them in the *Native Land Act 1909*, it equally happily discarded parts considered controversial, such as Stout and Ngata's repeated protests against Section 11 of the *Native Land Settlement Act 1907*.

Stout and Ngata pointed out at the time, there was the distinct possibility that Part I of the 1907 Act might discriminate against some Maori landowners by forcing unwanted sales. As Loveridge writes, 'an opportunity to eliminate this feature in 1909 was not taken. Presumably the political costs of attempting to do so were considered to be too high.'²³ Despite a vigorous campaign mounted against Section 11 of the 1907 Act, the

²³ Loveridge, *Maori Land Councils and Maori Land Boards*, p.100.

provision was still there in 1909, and the Commissioners protestations about the inequities that it created for Maori landowners were ignored completely. The Commissioners had also been strong in their condemnation of the failure of Government policy to protect Maori from, and to prevent the 'wasteful expenditure' of, land purchase proceeds. And as with Section 11, this recommendation was side-stepped by the Government, and there was no inclusion of any such provision in the 1909 Act.

However, Maoridom was not convinced the 1909 Act went far enough to protect them. Land which formerly could be acquired only through Crown agents, could now be acquired by anyone. Maori land was on the open market and even individual interests could be acquired. In fact the 1909 Act marked the commencement of even stronger Government initiatives to acquire Maori land. It established a Native Land Purchase Board, which was set up in 1910. From this time the alienation of Maori land was accelerated and taihoa began to recede in importance.

Far from Crown purchases ceasing, as envisaged by the Commission, in the decade between 1911 and 1920 such purchases amounted to one million acres. The purchase of Maori land was resumed from 1910 onwards and a further 2,290,284 acres was bought between 1910 and 1921. The initially favourable land legislation that had protected Maori land, was heavily amended to encourage land selling. The door was thrown wide open [for Pakeha to grab farmable first class Maori land] by the 1909 Act which saw private buying outstrip Crown purchase. This 'mixed' purchase of both private and Crown buyers was so effective that Maori owned less than five million acres by 1920. Over three million acres of this land was leased, leaving Maori with less than one million acres of usable land.²⁴

As the Government purchase policy gathered steam again from 1910, Ngata was thus left to fight 'a rearguard action' for the continued retention of Maori land. Over the years following the Commission, he went on fighting the battle, and kept faithful to his calls for the provision of finance. By the late 1920s, active measures to assist the Maori landowner who wished to farm had begun to be put in place, and Ngata was the driving force behind these developments. They finally came to fruition in 1929, nearly twenty years after the Commission, when as Native Minister, Ngata obtained state funds which could be lent to Maori farmers. For all those years, Ngata had attempted to 'reinvigorate communal bonds by giving them an economic function',²⁵ and under his guidance, a programme of land development and settlement of Maori on their own lands was eventually introduced.

At a later stage in his career, Ngata wrote papers on these matters, and reflected upon his own Land Development Schemes instigated whilst he was Native Minister from 1929-1934, and in which he still believed.²⁶ 'In 1929', wrote Ngata, 'Parliament, nearly ninety years after the Treaty of Waitangi, assumed direct financial responsibility for a policy of encouraging and training Maori to become industrious settlers under

²⁴ Tom Brooking, "Busting Up" the Greatest Estate of All: Liberal Maori Land Policy, 1891-1911', The New Zealand Journal of History, Vol. 26, No.1., (April 1992), p.78.

²⁵ W.H. Oliver, Challenge and Reponse: a Study of the Development of the Gisborne East Coast Region, Gisborne, 1971, p.190.

²⁶ Apirana Ngata, 'Maori Land Settlement' in I.L.G. Sutherland, ed, The Maori People Today: a General Survey, Wellington, 1940.

Government direction and supervision.' Ngata was determined that the Land Development Schemes should succeed, and commented in his later writings that it was 'one chance in a hundred years of British rule in this country offered to the Maori people and it must not fail.'²⁷

The main features of the scheme as described by Ngata were: (a) in order to overcome the delays or difficulties arising from the nature of the land titles, the Native Minister was authorised to bring such lands under the scheme. The difficulties as to title were 'literally stepped over' and the development and settlement of the lands made the prime consideration; (b) the funds for development were provided by the State; (c) private alienation of any land within a scheme was prohibited; and (d) the main aim was the training of Maori to be efficient farmers in the course of developing their lands and to assist them when they settled down to the business of farming.²⁸ On reflection on his policy, ten years in operation at the time when he wrote the paper, Ngata still firmly believed in the schemes he had created, and noted that the size of the area cultivated, enclosed and subdivided, equipment in the form of implements and machinery, cowsheds, woolsheds, sheep-dips, yards, and finally, shelter for settlers, were the features which impressed most observers. Aside from this, Ngata also wrote of the improvement in health and hygiene, and the higher standards of education being achieved by Maori children as a result of the Land Development Schemes.²⁹

According to Butterworth, Ngata's aims were more than just land development. He saw the schemes as part of a grand design, not only to provide a means of living for individual Maori families, but to provide a new economic basis for the tribe and to strengthen traditional Maori social values and organisation.³⁰ As part of this design he tried to utilise Maori administrative ability and insisted on traditional leaders participating in the land development schemes as foremen. Ngata also began the Native Department's housing programme because, of course, the land development schemes meant that settlers had to have houses provided for them on their units. Even though financial constraints meant that only a small number of houses were provided, Ngata had won the principle that the Government had a responsibility for Maori housing and had set a precedent on the development schemes.³¹

The scheme became a permanent feature of Maori rural life, but Maori farming in general remained in a difficult situation. Some of the schemes, particularly in Northland, were on poor land - steep, unstable and remote - and could not sustain production at an economic level. Others were too small, and in some cases, land returning to Maori after the expiry of leases was in a run down condition.³² Nonetheless, there is no doubting the importance of Ngata's land settlement schemes, even if they were not an unalloyed success. They established the importance of state assistance to Maori farming enterprises and they gave the Maori people, for the first time since the Treaty of Waitangi, both the financial wherewithal and the boost in

²⁷ Ibid., pp.144-145.

²⁸ Ibid., p.144.

²⁹ Ibid., p.146.

³⁰ G. V. Butterworth and H.R. Young, *Maori Affairs: A Department and the People Who Made It*, Wellington, 1990, p.74.

³¹ Ibid., p.76.

³² George Asher and David Naulls, *Maori Land*, Planning Paper No. 29, Wellington, March 1987, p.41.

morale needed to bring more Maori land into productive use.³³ They mark the fruition of Ngata's ideas on Maori land development which are so evident in the reports of the Stout-Ngata Commission.

However, by the time much of this happened, it was too late, and most of the Maori lands had gone. By 1940, all Maori could no longer be accommodated on the land anymore, and many began the drift to the urban centres. At the end of the day Stout and Ngata were only two men, the Liberals needed votes, and the intelligent, sensible recommendations which promoted Maori progress were swallowed up, only to be given vague reference to in the *Native Land Act 1909*.

HISTORICAL SIGNIFICANCE OF COMMISSION

During the decades from 1930-1960 various governments have attempted to adopt the recommendations of the Stout-Ngata Commission aimed at improving the economic position of Maori and their social and political relationships with Pakeha. This is testament to the longevity of the Commission's recommendations, which in itself would be a surprise to most who assume that the significance of this Commission is limited. Butterworth suggests that the Commission played a useful mediating role between government and the Maori people. Their first and second General Reports on the past and future of policy and administration of Maori lands, which incorporated much of the Maori viewpoint, was a landmark in the evolution of Maori policy.³⁴

Ngata saw the recommendations as a promotion of Maori progress, and for Maori, the Commission gave them a chance to participate and voice their concerns. In this respect, more so than ever before, the people were able to put their own stamp and influences on the final recommendations of a Government Commission. Not only was the purpose of the Commission for Stout and Ngata to hand out advice to Maori; but Maori also ensured that Stout and Ngata heard their concerns, knew of the people's desire to maintain control of their land, and listened to their suggestions regarding the future utilisation of their lands. As to the Commissioners' recommendations, the Maori response was positive, and they acknowledged that the Stout and Ngata had provided opportunities for Maori to successfully utilise their lands.

Loveridge claims that the primary role of the Commission was that of stock-takers. However with the likes of Stout on board, I believe that the Commission's role became more important in passing recommendations, analysing past legislation, and producing new ideas on how Maori could successfully settle their own lands without it being taken by the Crown. Stout and Ngata became an analytical Commission rather than statisticians. Stout and Ngata both wanted to make a contribution to the solving of the 'Maori land problem', and used their positions on the Commission both to present their thoughts on the failings of past legislative methods, and to introduce new concepts of what they perceived were the way forward. The Commission certainly had to complete data to accompany their specific recommendations, but the

³³ Ibid.

³⁴ G. V. Butterworth, *Aotearoa, 1769-1988: Towards a Tribal Perspective*, p.25. Katene quoted this suggestion of Butterworth in his thesis, see Selwyn Katene, 'The Administration of Maori Land in the Aotea District, 1900-1927', MA Thesis, Victoria University of Wellington, 1990, p.212.

statistics they gathered are not necessarily what the Stout-Ngata Commission should be remembered for.

Loveridge also concludes 'that the Stout-Ngata Commission seems to have had much less impact on Maori land tenure on the ground than a scrutiny of its reports might otherwise lead one to believe...'³⁵ But the Commission was given wide powers to deal with Maori land matters. This meant for instance that it forced the opening up of some "sticky" issues. As with the East Coast where Maori had to contend with trustees whose business skills were not entirely honest, the Commission had forced such people to present themselves and explain the situation. In that way, the Commission also highlighted the poor performance of successive Governments over the years. The Commissioners were particularly critical of Government legislation, and of their whole attitude to ensuring the welfare of Maori. If it achieved little else, the Commission brought the sometimes questionable actions of Government under close scrutiny, and left them open to be assessed and critiqued by the public - both Maori and Pakeha.

However, the Commission was driving into a head wind. If it had been appointed years out from an election, perhaps the Government would have been more willing to compromise and adopt their recommendations of the Commission. However, as it was, the Liberal Government were closing in on an election, and one in which the battle was going to be tough. Therefore in order to secure the rural Pakeha votes, the Government was willing to grant Pakeha almost any concessions, including the opening up of thousands of acres of Maori land. Although the Commission was originally appointed with the intention of aiding Maori as much as Pakeha, (it was the Government's original desire to ensure that Maori had enough to live on) the end result was very different, the genuine recommendations of the Commission were side-lined in the bid to win an election. The work of the Commission was thus seemingly left hanging, and one feels that its conclusions were never completely addressed.

The Commissioners practical recommendations could have led the way to major change in Government Maori land policy. Sadly, however, their impact on government policy was very limited.

³⁵ Loveridge, Maori Land Councils and Maori Land Boards, p.77.

APPENDIX I

AJHR 1907 SESSION III G.-1

COMMISSION APPOINTED TO INQUIRE INTO THE QUESTION OF NATIVE LANDS AND NATIVE-LAND TENURE

PLUNKET, Governor

To all whom these presents shall come, and to Sir Robert Stout, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Chief Justice of the Colony of New Zealand; and to Apirana Turupa Ngata, of Auckland, Bachelor of Laws, Barrister of the Supreme Court of New Zealand: Greeting.

Whereas there are large areas of Native [sic] lands of which some are unoccupied and others partially and unprofitably occupied: And whereas it would be for the benefit of the Natives themselves and to the advantage of European settlement if prompt and effective provision were made whereby such lands should be profitably occupied, cultivated, and improved: And whereas it is expedient that a Commission should be appointed to inquire and report as to the best methods to be adopted in the premises:

Now, therefore, in exercise of the powers conferred on me by "The Commissioners Act, 1903," and the amendments thereof, and of all other powers and authorities enabling me in that behalf, I, William Lee, Baron Plunket, the Governor of the Colony of New Zealand, acting by and with the advice and consent of the Executive Council of the said colony, do hereby appoint you, the said

SIR ROBERT STOUT and
APIRANA TURUPA NGATA,

to be a Commission to inquire and report as to-

1. What areas of native lands there are which are unoccupied or not profitably occupied, the owners thereof, and, if in your opinion necessary, the nature of such owners' titles and the interests affecting the same.
2. How such lands can best be utilised and settled in the interests of the Native owners and the public good.
3. What areas (if any) of such lands could or should be set apart -
 - (a.) For the individual occupation of the Native owners, and for the purposes of cultivation and farming.
 - (b.) As communal lands for the purposes of the Native owners as a body, tribe, or village.
 - (c.) For future occupation by the descendants or successors of the Native owners, and how such land can in the meantime be properly and profitably used.
 - (d.) For settlement by other Natives than the Native owners, and on what terms and conditions, and by what modes of disposition.
 - (e.) For settlement by Europeans, on what terms and conditions, by what modes of disposition, in what areas, and with what safeguards to prevent the subsequent aggregation of such areas in European hands.

And further to report as to -

4. How the existing institutions established amongst Natives and the existing systems of dealing with Native lands can be best utilised or adapted for the purposes aforesaid, and to what extent or in what manner they should be modified.

And you are hereby enjoined to make such suggestions and recommendations as you may consider desirable or necessary with respect to the foregoing matters, and generally with respect to the necessity of legislation in the premises.

And, with the like advice and consent, I do further appoint you, the said SIR ROBERT STOUT to be Chairman of the said Commission.

And for the better enabling you, the said Commission, to carry these presents into effect you are hereby authorised and empowered to make and conduct any inquiry under these presents at such times and places in the said colony as you deem expedient, with power to adjourn from time to time and from place to place as you think fit, and to call before you and examine on oath or otherwise, as may be allowed by law, such person or persons as you think capable of affording you information in the premises; and you are also hereby empowered to call for and examine all such books, documents, papers, plans, maps, or records as you deem likely to afford you the fullest information on the subject matter of this inquiry, and to inquire of and concerning the premises by all lawful ways and means whatsoever. And, using all diligence, you are required to transmit to me, under your hands and seals, your reports and recommendations from time to time after the inquiries aforesaid have been made in respect of any considerable blocks or areas of Native land; and to transmit me your first report not later than the fifteenth day of July, one thousand nine hundred and seven, or such extended date as may hereafter be named by me in that behalf, and your final report not later than the first day of January, one thousand nine hundred and nine, or such extended date as may hereafter be named by me. And you are directed to so frame your reports as to facilitate prompt action being taken thereon, and in particular to furnish in such reports such detail as to the lands available for European settlement as will enable Parliament, if it deem fit, to give immediate legislative effect to such parts of your reports. And it is hereby declared that these presents shall continue in full force and virtue although the inquiry may not be regularly continued from time to time or from place to place by adjournment. And, lastly, it is hereby further declared that these presents are issued under and subject to the provisions of "The Commissioners Act, 1903," and "The Commissioners Act Amendment Act, 1905."

Given under the hand of His Excellency the Right Honourable William Lee, Baron Plunket, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George. Knight Commander of the Royal Victorian Order. Governor and Commander-in-Chief in and over His Majesty's Colony of New Zealand and its Dependencies: and issued under the Seal of the said Colony, at the Government House, at Wellington, this twenty-first day of January, in the year of our Lord one thousand nine hundred and seven.

J.G. WARD.

APPENDIX II

The following is a table-like list of the sittings of the Stout-Ngata Commission, which occurred after the presentation of the Commission's first three interim reports in March and April 1907. It includes (wherever possible):

- the date of sitting;
- the town or district in which sitting was held;
- the venue of sitting;
- commencement time; and
- any other details which may be relevant to each sitting...¹

1907

The first official Commission sittings which were open to the public commenced on Saturday 23 February 1907 at the Napier Courthouse, where oral and documentary evidence regarding the Waimarama inquiry was heard and read by the Commissioners. These initial sittings lasted for a week with proceedings being completed on Saturday 2 March, during which both Sir Robert Stout and Apirana Ngata were present.

Stout and Ngata then spent much of March touring through the Hawkes Bay and Gisborne districts.

6-7 March Mohaka

Some one hundred owners attended the Commission's sittings when the Commissioners investigated the Mohaka and Wharehaurakau blocks.

8-9 March Wairoa Local Courthouse

The Tutaekuri and Tutuotekaha blocks were the subject of the Commission's hearings and these sittings.

11 March Nuhaka

The Commissioners also stopped in Tutira and Tangoio where they were able to meet local Maori land-owners.

13 March Gisborne

To complete their early inquiries in the region, a short meeting of the Stout-Ngata Commission.

By the end of March, the Commissioners had progressed from the East Coast, and began sittings in the Wanganui district. From 22 March through to the first week of

¹ I compiled this outline of the Commission's sittings myself. Material used was taken from research I had collected, and primarily came from the Commission's reports as published in the AJHRs, G.1 - G. 1E 1907, G.1-G.1U 1908, and G.1-G.1I 1909, from the Commissioners' Minute Books, MA 78, #1,2,3, and from the various notes and files found throughout MA 78, in the National Archives.

April 1907, meetings were held in Wanganui at the Aotea Land Board offices in the Masonic Hall, where evidence mainly referring to the witnesses' personal wishes was taken. Both Stout and Ngata were present at the hearings, and Skerrett also accompanied the Commissioners to act as legal aid for the Maori.

The Commission's work was then held up in April 1907 as Stout recovered from a serious attack of food-poisoning. Owing to his 'continued indisposition' Stout was unable to resume his Commission duties. Consequently any further sittings of the Land Commission, including those planned in the King Country, were adjourned for several weeks.

Proceedings re-opened in the King Country at Te Kuiti on 24 May. Sittings were held there and at Taumarunui and Otorohanga until 6 June. It has been noted from the evidence that many prominent Maori owners and hapu from the King Country were absent from the Commission's sittings, and this at times seemed to prevent Commission business from moving along. This series of sittings was the lengthiest run by the Commission, and lasted for about ten days.

31 May Te Kuiti

On this day, Commission heard from Pakeha lessees only. [Did this become a common method? - to hold sittings for Pakeha on one day, and sittings for Maori on another? Was their evidence always heard separately?] It was actually very rare for the Commission to have many Pakeha attend sittings at all. Instead, interested Pakeha generally sent their lawyers to converse privately with the Commission, or they conducted their business with the Commission via correspondence.

1 June Taumarunui

Hakiaha Tawhiao welcomed Commission, and listed certain blocks which he wished Commission to enquire in to.

3-4 June Te Kuiti 10.30am

Ngata conducted Commission sittings without Stout, who was still ill with food poisoning at this stage. However, he was accompanied by Skerrett, the lawyer appointed to represent Maori interests, and William Pitt, the interpreter. Proceedings commenced at 10.00am on the first day, and was adjourned that same day at 2.00pm, to enable Maori owners to consult Skerrett. Those in attendance were Maori from Kinohaku.

4 June Otorohanga 2.00pm

5-6 June Otorohanga 10.00am

Ngata and Skerrett attended these three days of sittings at Otorohanga. This seemed a particularly large district to deal with, and large numbers of Maori attended and gave evidence.

10-12 August Napier Courthouse

These were not major sittings, the Commission having completed most of its investigations in the Hawkes Bay earlier in the year. However, both Stout and Ngata attended these sittings along with Skerrett and Fraser, the Maori legal representatives, and the Commission's secretary and interpreter. This time around, the Commission examined the Otawhao and Rakautatahi blocks, and heard from fourteen Maori with interests in the land. Mr Skerrett told the

Commission that it was the wishes of the Maori owners to permit the present lease to run out, and after reserving the necessary land for their own use, to offer lease again.

From July through until November, Ngata was required to be in Parliament thus halting the Commission's proceedings. However, after the adjournment of this 1907 parliamentary session which saw the tabling of the Commission's first interim reports, and the passing of the *Native Land Settlement Act 1907*, the Commission began its sittings again. The first was in Gisborne on 30 November 1907.

30 November **Gisborne** **Supreme Court Building**
 Attended by Stout, Ngata, Commission Secretary Hill, and the interpreter Pitt, proceedings commenced at 10.00am, and aimed to ascertain how much Maori land in the district was available for settlement. Maori owners attended, and also W.L. Rees and the Commissioner for the East Coast Native Land Trust Board.

2 December **Gisborne** **Courthouse**
 Both Stout and Ngata present, and investigated a particular piece of land, the Mangahauini Block. A Mr Sievwright was also in attendance on behalf of the children and successors with interests in this block.

9 -12 December **Waiomatatini** **Marae**
 This sitting at Waiomatatini, near Port Awanui dealt with lands in the Waiapu County. All members of the Commission were present at this meeting with the Waiapu Maori, and over one hundred Maori, representative of the people from Tokomaru to Waiapu, filled the meeting house. For Ngata, this was his home county, and was important to him personally. At the opening of the Commission, he delivered an address which described the early history of the Maori land question in this, his county, and was an interesting indication of his attitudes.[See Chapter Five, pp.150-154 which includes discussion of Ngata's speech.]

17 December **Tokomaru**
8.30pm
 It is noted that this was an evening sitting, which appeared to be a very rare occurrence. Ngata chaired the meeting alone, and examined a few specific blocks. Evidence was received from ten Maori with interests in the land.

18 December **Tolaga Bay**
 On this day, numerous blocks in the same area were dealt with. Of those Maori owners who gave evidence, many appeared in conjunction with more than one block, and gave evidence for each of the different blocks in question.

The Commission also sat at Waipiro Bay, where it dealt with lands in the southern portion of the Waiapu County.

1908

16-17 January **Whakarewarewa**

9.30am

11 May	Coromandel	Courthouse	10.00am
11 May	Ngaruawahia	Town Hall	
This was a series of general meetings of all Waikato owners, held to decide what they wanted done with their remaining lands. Here the Commission also met the people of Mahuta, leader of the Kingitanga.			
14 May	Thames	Courthouse	10.00am
18 May	Rotorua	Courthouse	10.00am
11-12 June	Whakarewarewa		10.00am

In the months of mid-1908, the Commission held meetings in Thames, Morrinsville, and Te Aroha.

These sittings were attended by large numbers of Maori, and here Stout and Ngata met the Ngati Haua people, led by Taingakawa. However, they did not meet Taingakawa in his own Raglan County. [See more on Taingakawa and his participation in the Commission in Chapter Five, pp181-187.]

20 June Morrinsville
Only Stout was present on this occasion.

24-25 June Waharoa

25- 26 July Masterton
Commission dealt with the set of Waitutuma blocks, and found that there was no considerable area of Maori land that lay unoccupied, the larger portions of Maori land being already under lease to Pakeha.

4 August Coromandel
This was a brief sitting, yet a considerable number of Maori from Manaia, Kennedy's Bay and Ti Kouma attended the meeting. However, it was noted in the minutes that the owners of blocks in Whangapoua, Whitianga, and Moehau were not represented.

24 August Te Aroha Courthouse 2.00pm
Again, the Commissioners met Tupu Taingakawa's people.

3- 4 September Rotorua
This sitting is an example of a smaller, more private meeting conducted between the Commissioners and one or two other interested parties. (See discussion of this in the later section on the agenda of the sittings, p.??? and also in the following chapter, p.???) The meeting was to discuss a timber/railway agreement on Tuwharetoa land, which had been signed by the iwi and a timber company. Stout and Ngata were to assess its legality, and to ensure that the agreement complied with sections of the *Native Land Settlement Act*. The Maori were represented by counsel Mr Blair, who was appearing on behalf of Mr Skerrett. Others present at the meeting included Te Heuheu Tukino and Lawrence Grace, who was connected by marriage to Tuwharetoa, two members of the iwi, and also two of the timber company's lawyers. Numbers at the sitting thus totalled nine persons, including Stout and Ngata.

26 September Wellington

This was a special sitting convened by Stout and Ngata in the capital city, and lasted for one day only. It gave the owners of the Waitutuma blocks in the Wairarapa a chance to come to Wellington and appear before the Commissioners, and indeed some 86 owners, with relative interests or shares ranging from 29-600 acres attended the sitting.

October, Commission visited Napier again.

Throughout November, Ngata was busy campaigning for the upcoming election, and was thus unable for sometime to do any work in connection with the Commission.

2-3 November Gisborne Native Land Court

A brief sitting for Stout only, re-examining evidence collected at an earlier date.

13 November Huntly Marae

At this sitting it was estimated that 400 Maori were present at the opening, to welcome the Commission.

11 December Auckland

Stout convened this sitting alone, and heard evidence from a witness in regard to a large block of land near Mokau in the King Country.

By the end of December and beginning of January 1909, when the Commission's timeframe had expired, there were still several areas of Maori lands still to be dealt with, and more sittings to be held, including in connection with the Mokau blocks near Te Kuiti.

- AJHR 1908 G.-i Native Lands and Native Land Tenure: Interim Report of Native Land Commission on Native Lands in the Waiapu County (Vol IV)
- AJHR 1908 G.-ii Report of Native Land Commission on Lease of Waimarama Block 3A, Hawkes Bay
- AJHR 1908 G.-iii Interim Report of Native Land Commission on Native Land in the Counties of Cook, Waiapu, Wairoa, and Opotiki
- AJHR 1908 G.-1 Further Report of Native Land Commission, Dealing with Native Lands in the Waimarama Estate
- AJHR 1908 G.-1A Interim Report of Native Land Commission on Native Lands in the Urewera District
- AJHR 1908 G.-1B Interim Report by Native Land Commission on Native Lands in the Counties of Wanganui, Waimarino, Rangitikei, and Waitotara
- AJHR 1908 G.-1C Interim Report of Native Land Commission on Native Lands in the County of Whakatane
- AJHR 1908 G.-1D Interim Report of Native Land Commission on Native Lands in the County of Tauranga
- AJHR 1908 G.-1E Interim Report of Native Land Commission on Native Lands in the County of Rotorua
- AJHR 1908 G.-1F Report of Native Land Commission on the Operation of Section 11 of *The Native Land Settlement Act 1907*
- AJHR 1908 G.-1G Interim Report of Native Land Commission on Native Lands in the Counties of Waitemata, Rodney, Otamatea, and Hobson
- AJHR 1908 G.-1H Interim Report of Native Land Commission on Native Lands in the County of Rotorua
- AJHR 1908 G.-1I Interim Report of Native Land Commission on Native Lands in the Counties of Hokianga and Bay of Islands
- AJHR 1908 G.-1J Interim Report of Native Land Commission on Native Lands in the Counties of Whangarei, Hokianga, Bay of Islands, Whangaroa, and Mangonui
- AJHR 1908 G.-1K Interim Report of Native Land Commission on Native Lands in the County of Tauranga
- AJHR 1908 G.-1L Interim Report of Native Land Commission on Native Land Known as Pakowhai Reserve, Hawkes Bay

- AJHR 1908 G.-1M Interim Report of Native Land Commission on Native Land in the County of Opotiki
- AJHR 1908 G.-1N Interim Report of Native Land Commission on Native Land in the Rotorua County and Within the Thermal-Springs District
- AJHR 1908 G.-1O Interim Report of Native Land Commission on Native Lands in the Rohe Potae or King Country District
- AJHR 1908 G.-1P Interim Report of Native Land Commission on the Orakei Native Reserve
- AJHR 1908 G.-1Q Further Report of Native Land Commission, Summarising Previous Reports
- AJHR 1908 G.-1R Interim Report of Native Land Commission on Native Lands in the Wairarapa District
- AJHR 1908 G.-1S Interim Report of Native Land Commission on Native Lands in the Coromandel County
- AJHR 1908 G.-1T Report of Native Land Commission on Agreement by Ngati Tuwharetoa Tribe and a Company for Sale of Timber and Construction of Railway
- AJHR 1908 G.-1U Interim Report of Native Land Commission, Amending and Correcting the Report on the Orakei Reserve
- AJHR 1909 G.-1 Interim Report of Native Land Commission on Native Lands in the County of Piako (Session I, Vol I)
- AJHR 1909 G.-1A Interim Report of Native Land Commission on Native Lands in Manukau, Thames, and Ohinemuri Counties
- AJHR 1909 G.-1B Interim Report of Native Land Commission on Native Lands in Raglan County
- AJHR 1909 G.-1C Interim Report of Native Land Commission on Native Lands in Hawkes Bay, Patangata, Waipawa, and Rangitikei Counties
- AJHR 1909 G.-1D Interim Report of Native Land Commission on Native Lands in Masterton, Featherston, Wairarapa South, Pahiatua, Eketahuna, and Castlepoint Counties
- AJHR 1909 G.-1E Interim Report of Native Land Commission on Native Lands in the County of Cook
- AJHR 1909 G.-1F Supplemental Report of Native Land Commission on Native Lands in Various Districts

- AJHR 1909 G.-1G Native Lands and Native Land Tenure: Final Report of Native Land Commission
- AJHR 1909 G.-1H Native Lands and Native Land Tenure: Commission Under the Hand of His Excellency the Governor; and Interim Report of Native Land Commission on Native Lands in the County of Wairoa
- AJHR 1909 G.-1I Interim Report of Native Land Commission on Native Lands in Mokau-Mohakatino Block
- AJHR 1909 G.-10 Report of Conference at Waahi
- AJHR 1909 G.-11 King Country Native Lands: (Particulars Relative To) Leased or Disposed of During Last Five Years
- AJHR 1909 G.-2 Applications for the Issue of Orders in Council under the *Land Titles Protection Act 1908*. (Session II, Vol III)
- AJHR 1909 G.-3 Return Showing the Approximate Position of Native Lands in the North Island as at 30 September 1909
- AJHR 1909 G.-3A Maori Land Purchase Operations: Report Under the *Maori Land Settlement Act 1905*, for the Year Ended 31 March 1909.
- AJHR 1910 B.-1 Finance Reports (Vol I)

B. Newspapers

<u>Bay of Plenty Times</u>	December 1907-July 1908 September 1908 December 1908-February 1909
<u>Christchurch Press</u>	
<u>Evening Post (Wgtn)</u>	Various 1907-1909
<u>Gisborne Times</u>	August-December 1905 March-May 1907 November 1907-March 1908 October 1908-January 1909
<u>Hawkes Bay Herald</u>	
<u>Kawhia Settler and Raglan Advertiser</u>	February-March 1908 May-July 1908 October 1908-February 1909
<u>King Country Chronicle</u>	April-September 1907 Various 1908 January-February 1909
<u>New Zealand Herald</u>	January-July 1907

	Various 1908
	January-February 1909
<u>Napier Daily Telegraph</u>	October-December 1905
	January -April 1907
	February-March 1908
	October 1909
	December 1908-February 1909
<u>Poverty Bay Herald</u>	
<u>Kawhia Settler and Raglan Advertiser</u>	February-March 1908
	May-July 1908
	October 1908-February 1909
<u>Te Pipi Wharauoa</u>	
<u>Te Puke Ki Hikurangi</u>	
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	January 1909
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